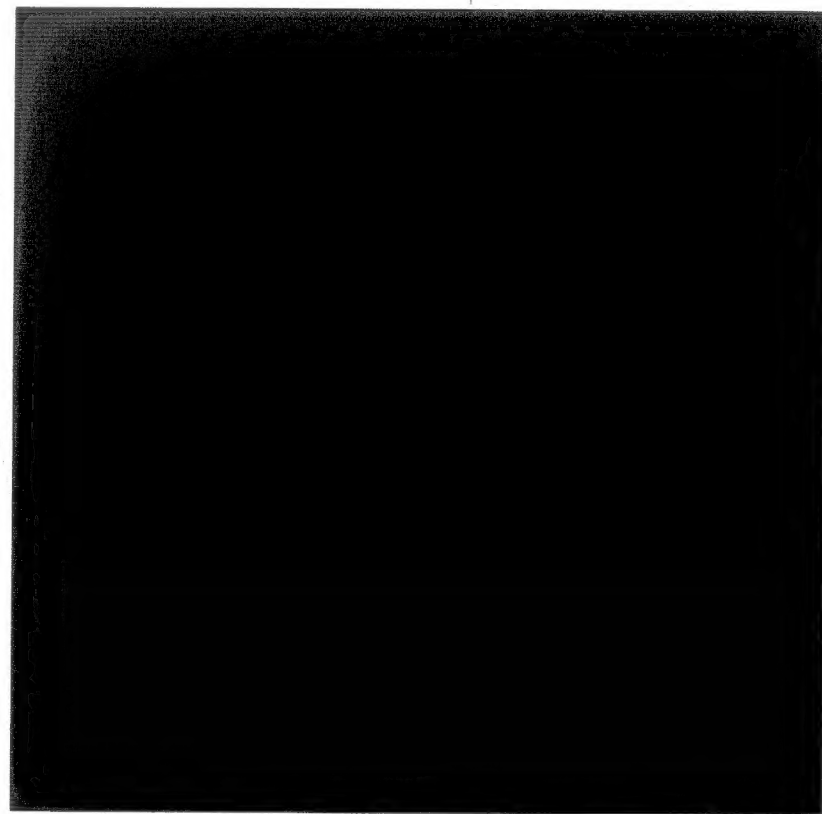
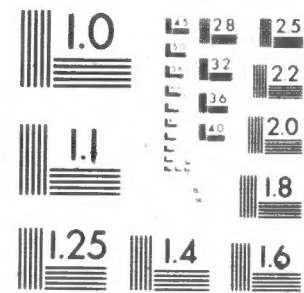
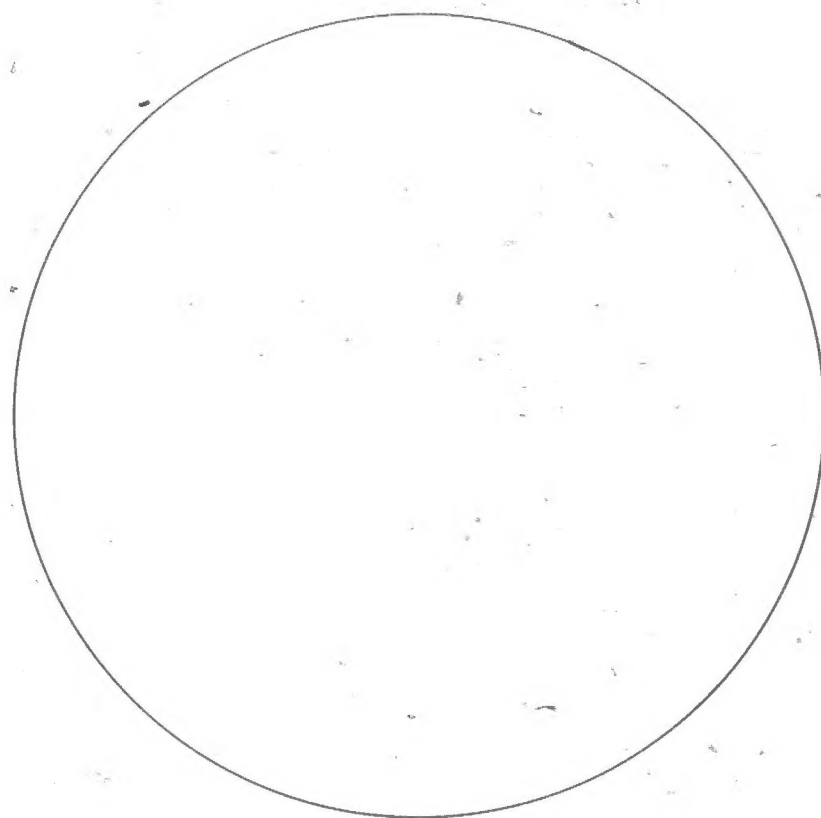
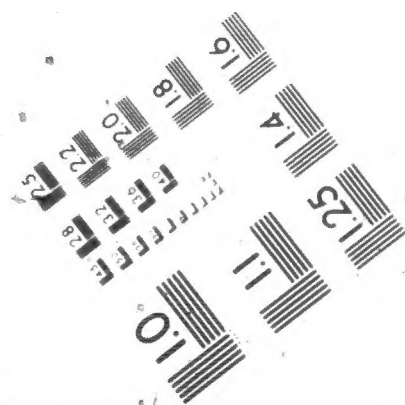


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APPLICATIONS FOR ENROLLMENT OF THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

1893 - 1914

ROLL 41

Choctaw by Blood 6010-6053

**THE NATIONAL ARCHIVES
NATIONAL ARCHIVES AND RECORDS SERVICE
GENERAL SERVICES ADMINISTRATION**

WASHINGTON: 1983

Choc 6010

Emaline Wilson

Refused 8-11-06

Trans to this jacket July 14, 1906

6010

Memo.--

Department of the Interior,
Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory, April 10, 1906.

In the matter of the alleged application for the enrollment of Emaline Wilson as a citizen by intermarriage of the Choctaw Nation.

APPEARANCES { P. H. Ayers of Ayers & Losey, attorneys at law, Atoka,
Indian Territory, appears on behalf of the applicant.
{ No appearance on behalf of the Choctaw and Chickasaw
Nations.

(Copy of notice to Mansfield, McMurray & Cornish, attorneys for the Choctaw and Chickasaw Nations, notifying them that on April 10, 1906, testimony would be presented relative to the right of Emaline Krebs as a citizen by intermarriage of the Choctaw Nation, filed herewith.)

EMALINE KREBS, being first duly sworn, testified as follows:

Examination by Commissioner:

Q What is your name? A Emaline.
Q Krebs? A Emaline Krebs.
Q How old are you? A I will be seventy in October, the 27th.
Q What is your post office? A Ego.
Q Through whom do you claim your intermarried rights?
A Through my husband, a one-half breed Indian.
Q What is his name? A John Pulaaki Krebs. The marriage certificate is here somewhere.
Q What is John Krebs, a Choctaw Indian? A Yes sir.
Q Is he living? A No sir. He died the second year of the war.
Q Died when? A Second year of the war.
Q When were you married to John Krebs? A In 1852; the 19th day of August in '52.
Q Where were you living at the time you married him?
A I was living in Winston County, Mississippi, the old Choctaw Nation.
Q Where was he living at that time? A He was living right there. When we was children we played together.
Q Are you a white woman? A Yes sir.
Q Citizen of the United States? A Why, yes.
Q What is the name of your mother? A My mother was named Charity Lowery.
Q Is she living? A No sir, she's been dead for years?

- Q Was she a white woman, citizen of the United States?
A Yes sir.
- Q What was the name of your father? A My father was a white man. I married a half breed Indian.
- Q Well, what was the name of your father? A My father was Benjamin Lowery, born and raised in Georgia.
- Q Where did you live with your husband, John Krebs?
A Winston County, Mississippi.
- Q Did he remove with you to the Choctaw Nation?
A No sir, He was dead, he couldn't move.
- Q He never has been in the Indian Territory?
A Yes sir, he was here in '50 or '51, right here in this Territory, down here about Skullville. That was before me and him was married.
- Q When did you come to Indian Territory? A Well, I've been here thirty-four years this last winter.
- Q You came here in '72? A Yes sir.
- Q Well, after you married John Krebs, where did you live with him?
A Well, sir, I lived with him in Winston County, Mississippi.
- Q Until his death? A Yes sir, until he went off and died, right within one-half mile of where we was married.
- Q How old a man was John Krebs at the time of your marriage to him? A Well, sir, he was going on nineteen years old. I was seventeen. He was two years older than I was.
- Q He died when he was about twenty-nine years old?
A Well, he died the second year of the war. I suppose so.
- Q Did you have any children by John Krebs? A Yes sir, I had four. I buried the last one of them the fourteenth of this April nine years ago.
- Q What were the names of your children? A Well, the boy was John William, the oldest one; the next Johnathan Stephen, then Jane, the next oldest girl, and the last one was Martha.
- Q Was John Krebs the father of these children? A Yes sir.
- Q When did J.W. Krebs die? A He died--it's nine years the 14th of this month since he died.
- Q Was he ever recognized by the Choctaw tribal authorities as a member of the Choctaw tribe? A Yes sir.
- Q Did he draw the 1893 Leased District money? A No, they was registered on the book, but somebody scratched it off, right there at Caddo.
- Q Isn't it a fact that your grandchildren were admitted by the Commission in 1896? A Yes sir.
- Q And had no tribal recognition prior to that date?
A No sir, I registered those children in '95.
- Q Have you ever remarried since your marriage to John Krebs?
A Yes, I married another Choctaw.
- Q What is his name? A John Wilson.
- Q Is he living? A No sir, been dead for years.
- Q Where were you living at the time of your marriage to John Wilson? A I was living in Smith County, Texas, below Tyler. About nine miles below Tyler.
- Q Was John Wilson a recognized Choctaw? A Why, no, he never did come here at all.
- Q After your marriage to John Krebs, he never removed to the Indian Territory? A No sir.

- Q Has your husband, John Wilson, ever been admitted by the Commission to the Five Civilized Tribes, or the United States Court?
- A No sir.
- Q Or by the Indian Agent, or by the tribal authorities?
- A No sir.
- Q Had your husband, John Krebs, ever been admitted by the tribal authorities, or by the United States Indian Agent, or by the Commission to the Five Civilized Tribes, or by the United States Court in Indian Territory? A I don't know.
- Q Had you ever been married before you married John Krebs?
- A No sir, I was just going on seventeen years old then.
- Q Had John Krebs ever been married before his marriage to you?
- A No sir.
- Q Since you came to the Choctaw Nation in 1872, have you resided anywhere else? A No sir, nothing only there right close where I am now.
- Q In the Choctaw Nation? A Yes sir.
- Q Do you claim that an application was made for your entollment as a citizen by intermarriage of the Choctaw Nation?
- A Yes sir, I made application when I registered my three grandchildren, right there in about a mile of Atoka.
- Q When was that? A '95.
- Q In '96? A I think it was '95.
- Q Who did you see at that time? A Why, I saw lots of people. I was a witness for my nephew at the time I registered my grandchildren.
- Q Are you sure that you appeared before the Dawes Commission at that time? A Yes sir, I did. I appeared before the Dawes Commission and registered my children, and they said my man was never here and recognized.
- Q Who did you ask to enroll you? A Well, now, I don't know the man's name.
- Q What kind of looking man? A Well, he was a heavy set man.
- Q How old? A Tolerably old.
- Q Where was the Commission located at that time while at Atoka?
- A About one mile northwest of Atoka in a grove.
- Q In the timber? A No sir, in a grove.
- Q In the open air? A No sir, they had some kind of a concern spread over them.
- Q Well, what? A A kind of a tent.
- Q Do you remember any people who were there at that time?
- A Why, I remember my nephew was there.
- Q What is your nephew's name? A His name was Jim Lowery, but he is dead, and my grandchildren was there.
- Q Did you see any Indians there that made application at that time?
- A Yes sir, but then I don't know who they were.
- Q Who were they? A I couldn't tell you.
- Q Don't remember the names of any of them? A No sir, I don't know any of them at all.
- Q Well, what did you tell the Commission when you appeared before the Commission at that time? A Well, sir, I didn't say anything, only I just asked them why.
- Q Didn't you ask them something? A No sir, I didn't ask them anything only why they would not put me on the roll.
- Q Well, how did you know that if you didn't ask them anything?

- A Well, I just asked them to register me and if I didn't have a right, and they said "No".
- Q Why? A Well, they said my man never was here and recognized.
- Q When you say "your children", you don't mean your own children do you? A No sir, my grandchildren, I said.
- Q Were any of your own children living at that time? A One.
- Q Which one? A Thomas Wilson, the one I had by my last man.
- Q Did any one make application for him? A No sir.
- Q Why, didn't you make application for Thomas Wilson?
- A Just because I couldn't get any witnesses. Didn't know where any of his people was.
- Q Is that the only time you ever attempted to make application for yourself? A Yes sir.
- Q Never did anything since until this day? A Well, I got a lawyer to get it through for me, but all he thought about was getting money, so I dropped it.
- Q Did you in 1896 file a petition with the Commission to the Five Civilized Tribes praying for your enrollment? (No answer).
- Q You claim, do you not, that you made application in 1896?
- A Yes sir, to the Commissioners.
- Q What fixes that date in your mind? A Well, that was the time I registered them, at least if I am not mistaken now.
- Q None of your children were ever placed upon the tribal roll of the Choctaw Nation? A None of mine but just J. W. Krebs.
- Q Did he draw the 1893 money? A No sir.
- Q Was he placed upon the 1896 Choctaw Census Roll to your knowledge?
- A Yes sir.
- Q Sure about that? A Why, he just got on the roll a short time before he died. He just received a letter about two weeks before he died.
- Q From whom? A From a lawyer.
- Q Have you since the time that you claim you appeared and made application to the Commission, ever written this office relative to your rights? A Yes sir.
- Q When? A Why, I couldn't tell you exactly.
- Q How long ago? A Two years ago.
- Q Your alleged appearance in 1896 and the letter you claim was written two years ago, were the only acts you have done tending to your enrollment? A Yes sir.
- Q Did your husband, John Krebs, have any brothers and sisters?
- A Yes sir, had a good many of them.
- Q Did any of them ever come to the Choctaw Nation?
- A Yes sir, one of his sisters is down at Skullyville, the only sister he has living, and no brothers.
- Q What is her name? A Caroline Bowman.
- Q Is that her name now? A Yes sir, I reckon it is.
- Q Is she a full sister of your husband? A Yes, she is a full sister to my husband, and one-half breed Indian.
- Q How is it that you go by the name of Kmaline Krebs?
- A Well, sir, nobody ever did call me Wilson; they all called me Krebs.
- Q Isn't your legal name Kmaline Wilson? A Yes sir, in letters and business I put my name Wilson.

By Mr. Ayers:

Q You say Benjamin Lowery was your father Mrs. Krebs?

A Yes sir.

Q Did you say that you were a citizen of the United States or were not? A Well, I reckon I was, I was a white woman.

Q Did you or did you not say your husband was here in '50 or '51?

A Yes sir, he was here in '50 and '51, and went back in '52.

Q Did he consider this his home? A No sir, he never had been here before, and just came here and stayed two years, and went back home where he was born and raised.

Q After your marriage to John Pulaski Krebs, did you ever move here to the Indian Territory with him? A No sir, we didn't ever move. We expected to move, and the war came up, and we gave up coming.

Q Then you did expect to come? A Yes sir, I thought I would come sometime when he come, but I never did come here until thirty-four years ago.

Q Do you know absolutely whether or not your grandchildren were or were not recognized at the time you registered them in '96?

A Yes sir, they was recognized. I had a letter saying they was recognized.

By the Commissioner:

Q Recognized by whom? A By Council.

Q Were they admitted by an act of Council? A Well, it was a lawyer that got my son's right through.

Q What son was that? A That was J. W. Krebs, this boy's father.

Q Was he admitted by an act of Council? A Yes sir.

Q Have you a copy of that act? A No sir.

Q Did you ever see it? A Why, I never saw anything only a letter he wrote that they was on the roll.

Q Who wrote? A That lawyer. I forget his name. He employed a lawyer.

By Mr. Ayers:

Q Did you mean Mrs. Krebs that they were recognized by an act of Council of the Choctaw Nation? A Why, that lawyer said he took it to Council.

Q That is all you know about it? A That is all I know.

Q Where was your husband at the time he died? A In Virginia.

Q Was he, or was he not, in the army? A Why, he went off; said he was going to join the army, but I don't think he did.

Q Was he sick at that time? A Yes, been sick a long time before he left; he had a bad cough.

Q With what trouble? A I guess consumption.

Q How long after his death until you moved here?

A I come to Texas and stayed there quite a while and then came here. Been here thirty-four years this last Christmas.

Q How many of your grandchildren were present at the time you registered them at Atoka? A There was three. I registered three of them, I think.

- Q Had you one son who was living at that time there with you?
A Yes, Thomas Wilson. No, Thomas Wilson wasn't with me. That boy there was with me.
Q Were you acquainted with any of the men that represented the Dawes Commission at that time of the registration?
A Well, no, I didn't know any one but Charley LeFlore. I just saw him that day. He was with the Commissioners.
Q Do you remember the names of persons that you met on other occasions as long ago as that? A Why, I don't know. I recollect a heap that has been a long time.
Q Who has been caring for your grandchildren since your son's death?
A Me and my son, but they was big enough to work when he died.
Q You say you think it was in 1896 that you registered or attempted to register? A Well, I think it was.
Q What makes you think it was about 1896? Is there anything that happened in your family to make you think it was about that time? A No.
Q How many years has your last child that died been dead?
A Been dead four years this last New Year's day.

By the Commissioner:

- Q What is his name? A Thomas Wilson.
Q He is a child by your last husband? A Yes sir.

By Mr. Ayers:

- Q Isn't it a fact then Mrs. Krebs, that by your child by your first husband that died at that time, you remember the time of this registration? A Yes sir.

By the Commissioner:

- Q Where was the mother of these children? A She was dead.
Q You say that Charley LeFlore was present at that time?
A Why, they told me he was one of the Commissioners.
Q Was Charley LeFlore an Indian? A Yes.
Q What did Charley LeFlore have to do with it?
A Well, I don't know, they told me he was one of them.
Q How do you know that you appeared before the Commission at all? Didn't you appear before some tribal Commission?
A No sir, only right there when I registered the children.
Q Who were the children that you speak of at that time?
A Why, John W. Krebs, this boy, Benjamin Krebs and May Krebs.
Q What time of the year was it? A Why, it was in the spring I think. It was awful hot weather.

By Mr. Ayers:

- Q When did the last one of your children by John Pulaski Krebs die? A He died the 14th of this last April some years ago. He was the oldest child.
Q Did he die before or after you registered these grandchildren?
A He died before.

By the Commissioner:

Q How long before? A I suppose it might have been a couple of months after he died.

By Mr. Ayers:

Q Do you remember just absolutely the time he died? A No, I don't know.

By the Commissioner:

Q You are positive are you that your son died nine years ago?

A Yes sir, just nine years.

Q How long after he died until you appeared before the Commission?

A It was less than a year.

Q The same year? A Yes sir.

By Mr. Ayers:

Q Isn't it a fact, Mrs. Krebs, that since you appeared before the Commission, and since writing the Commission about your rights, that you have employed attorneys to investigate them?

A One, and then he just never did any thing, so I just dropped them until I employed you.

Q Are you absolutely certain about your writing to the Commission?

A No sir, I can't write, but then Will Krebs's brother did. He wrote for me.

Q I believe you said that a sister of John Pulaski Krebs, who is living, bears the name of Caroline Bowman?

A Yes sir, Caroline Bowman.

Q How many times has Caroline Bowman been married?

A I couldn't tell you; been married four or five times.

By the Commissioner:

Q What was her name four years ago? A Bowman.

(Witness excused).

SERENA BLACK, being first duly sworn, testified as follows:

Examination by the Commissioner:

Q What is your name? A Serena Black.

Q How old are you? A I am sixty-three--will be on my birthday the 7th of November.

Q What is your post office? A Melbourne.

By Mr. Ayers:

Q Were you acquainted with John Krebs, a son of Mrs. Krebs here?

A Yes sir.

Q How many years, or about how many years, have you been acquainted with Matiline Krebs? A It is close to thirty-four years,

I reckon.

Q Was she here in the Indian Territory at that time?

A Yes sir, she was in Pickens County.

Q Where is she living now, and been living recently?

Q Well, that is something I couldn't tell you.

Q In the Choctaw Nation? A In the Choctaw Nation, I guess, is where she makes her home.

Q Have you ever known of her staying out of the Territory for any length of time? A No sir.

Q Have you ever known of her being out of either the Choctaw or Chickasaw Nations for any length of time? A No sir.

Q Do you know John Krebs, Jr., Mrs. Emaline Krebs' grandson?

A Yes.

Q How long have you known him? A Known him ever since he was born.

Q Were you present at his birth? A Yes sir.

Q And you said you knew his father, John Krebs? A Yes sir.

Q Did Mrs. Emaline Krebs live near you, and was she recognized at that time as the mother of John Krebs, Sr., and the grandmother of John Krebs, Jr.? A Yes sir.

Q How long were you acquainted with John Krebs, Sr., son of Emaline Krebs and John Pulaski Krebs, before his death?

A Well, I couldn't tell you exactly, but I was acquainted with him several years.

Q Then I understand you to say that Emaline Krebs was considered the mother of John Krebs, Sr., and was treated as such by him?

A Yes sir.

Q And everybody considered her his mother? A Yes sir.

Q To the best of your knowledge, was she his mother? A Yes sir.

By the Commissioner:

Q Do you know when John Krebs died, that is, Emaline's son?

A Well, no sir, I couldn't tell you when he died because he didn't live anywheres close to me. I heard of his death right after he died.

It appears from the records of the Commission to the Five Civilized Tribes, that on September 9, 1896, in the case entitled "Emaline Krebs vs. Choctaw Nation" (1896 Choctaw Citizenship Docket, Case No. 1197), Emaline Krebs made original application to the Commission to the Five Civilized Tribes for admission to citizenship in the Choctaw Nation as a citizen by intermarriage, claiming her right thereto by virtue of her marriage to John P. Krebs, a one-half blood Choctaw Indian; that on December 7, 1896, said Commission rendered its decision therein, denying said application from which decision, no appeal was taken.

By Mr. Ayers:

Q Has Mrs. Krebs been taking care of her grandchildren since the death of her child? A As long as they were under her, she did.

(Witness excused.)

JOHN KREBBS, being first duly sworn, testified as follows:

Examination by the Commissioner:

- Q What is your name? A John Krebs.
Q John W. Krebs? A Yes sir, John W.
Q How old are you? A I am about twenty-seven or twenty-eight, somewhere along there.
Q Are you a citizen by blood of the Choctaw Nation? A Yes sir.
Q You were admitted by the Commission in 1896, were you not?
A Well, I don't remember just what time it was.

(John W. Krebs is identified upon Choctaw field card, number 4008, opposite number 14387, approved April 11, 1903).

By Mr. Ayers:

- Q Are you, or are you not, the grandson of this Emaline Krebs?
A Yes sir, I am her grandchild.
Q What is your father's name? A John William Krebs.
Q Are you an approved citizen of the Choctaw Nation? A Yes sir.
Q By blood? A Yes sir.
Q Through whom do you get your right--through whose blood?
A Through my father's.
Q Did you state, or did you not, that your father was the son of Emaline Krebs? A Yes sir, he was the son of Emaline.
Q Who was his father? A John Pulaski Krebs.
Q John Pulaski Krebs, did you say? A Yes sir.
Q Was your mother a Choctaw? A No sir.
Q Then your rights were just upon your father's blood? A Yes sir.
Q When were you registered before the Commission?
A Why, I disremember what time it was.
Q About how long ago? One year ago, five years ago, ten or twenty?
A Why, it seems to me it was about seven or eight years ago. Right or somewhere along in there.
Q At or near what place was the registration party at the time that you were registered? A It was a little northwest of Atoka.
Q Did you register yourself? A My grandmother was there, and gave in our names to the Commission.
Q Then you knew that your grandmother was there at that time?
A Yes sir.
Q And had you registered, did she? A Yes sir.
Q Were any of your brothers and sisters living at that time?
A Yes sir.
Q Were any of them there with you? A Yes sir, there was Benjamin and May. Benjamin is my brother and May my sister. There are three with me.

- Q Were you right with your grandmother, Evaline Krebs, at the time that she registered you as her grandchildren?
A Yes sir, I was right out there.
Q You saw her go into the place of registration? A Yes sir, I was right close to her when she gave in our names.
Q Do you remember hearing her words at the time she registered you and your brother and sister? A Yes sir.
Q And remember hearing her talking to the Commissioner?
A I heard her tell them our names.
Q Did you, or did you not, hear her say anything to the Commissioner about her own registration? A Why, it seems that I heard her say something. I don't recollect.
Q Where has your grandmother been living lately?
A She has been living right there part of the time with me, and part of the time with Will Krebs.
Q How long has she been living in the vicinity of the Chectaw Nation, to the best of your recollection?
A Ever since I have been big enough to know anything about it.
Q And you say you are twenty-seven or twenty-eight years old?
A Yes sir.
Q Where were you born? A I was born in there about Washita.
Q How old were you at the time of the death of your father?
A I don't just remember just how old.
Q Well, then, I will ask you who took care of you after the death of your father and mother? A My grandmother and my uncle.

By the Commissioner:

- Q Did your father die before or after application was made for you?
A He died before.
Q How long before? A Why, I don't just remember how long.
Q Did you draw the 1893 Leased District money? A No sir.
Q Were you enrolled in 1896 by the Chectaw tribal authorities?
A No sir, I never was.

By Mr. Ayers:

- Q You are an approved citizen of the Chectaw Nation now, are you not? A Yes sir.

(Witness excused.)

EVALINE KREBS recalled:

Examination by the Commissioner:

- Q Mrs. Krebs, it appears of record that in 1896, Dunstan and Williams, attorneys at law, of Atoka, Indian Territory, filed a petition for your enrollment as a citizen by intermarriage of the Chectaw Nation, under the Act of June 10, 1896?
A Yes, I got that lawyer, and he wrote them about me.
Q Now, was this application that you claim was made to the Commissioner by yourself, made after or before that?
A It was before that.

- Q It was before that? A Yes.
- Q So you claim that you appeared in person before the Commission, and you also made application by petition? A I was there and made application for enrollment when I registered the children, and they wouldn't count it.
- Q Do you remember having signed a petition in 1896 sworn to before J. K. Wilkins, at Atoka? A No sir, I never had anything to do with Wilkins, it was Dunstan.
- Q Here is your petition here? A Well, Dunstan may have got him to fix it.
- Q Did you ever sign a petition, or have anyone sign it for you? A Well, I don't know whether I signed it or not.
- Q Is this the application that you referred to as being the one you made at Atoka? A The time when I registered the children?
- Q No, when you made application to the Commission in 1896? A Yes, I recollect all about asking them for application, and they would not grant it.
- Q Now, I will tell you for your information that the Commission was not out in the field in 1896 receiving applications of any kind? A Well, I disremember when it was because I never paid any particular attention to it. Never thought about it.
- Q You fixed the date of the death of your son John Krebs as nine years ago? A Yes sir, nine years ago.
- Q That would make it in 1897? A No sir, he has been dead eight years this April.
- Q Then your son died in 1898? A Yes.
- Q Now was it before or after that that you appeared before the Commission in person at Atoka? A It was after that.
- Q You don't remember what season of the year it was? A No sir, only it was mighty warm weather.
- Q Were you ever known by the name of Emaline Lowney? A My name is not Lowney. My name was Lowery.
- Q When were you married to John Wilson? A Well, sir, I couldn't tell you exactly when.
- Q Was it before you came to the Indian Territory? A Yes sir.
- Q Your petition filed with the Commission in 1896 states that you never remarried after you married John Krebs? A Well, sir, I always have told it, I married after my first man died.
- Q Did you ever know a woman by the name of Mary Burgerman? A Why, no.
- Q Did you ever know a woman named Isabelle Rogers? A Yes sir.
- Q Who was she? A My first husband's sister.
- Q Who was Nancy Osborne? A She was my husband's sister.

By Mr. Ayers:

- Q Is there anyone living who was present at the time of your marriage to John Pulaski Krebs? A Caroline Bowman.

(Witness excused).

Lenora B. Ashton, upon oath states that as stenographer to the Commissioner to the Five Civilized Tribes, she reported the proceedings had in the above entitled cause on the 10th day of April, 1906, and that the foregoing transcript is a full and true translation of her stenographic notes.

Lenora B. Ashton

Subscribed and sworn to before me this 12th day of April, 1906.

Edward M. Morris

PETITION FOR CITIZENSHIP.

Now comes your petitioner Emeline Krebs and respectfully states that she married John Pulaski Krebs a choctaw Indian, in Mississippi A. D. 1852; that said John Pulaski Krebs was a Choctaw by blood and a brother to the mother of T. M. Lowry who resides at Healdton and is an approved citizen of the Choctaw Nation; that said T. M. Lowry has known your petitioner ever since the above mentioned date of her marriage; that he was well acquainted with her before that time and knows of her said marriage.

Your petitioner can further prove by John W. Krebs that he is an approved Indian citizen of the Choctaw Nation of the Indian Territory; that he has his right by blood; that he is the grandson of your petitioner Emeline Krebs and her husband John Pulaski Krebs and that John William Krebs was his father and the son of Emeline and John Pulaski Krebs; that your petitioner has lived in the Choctaw and Chickasaw Nations of the Indian Territory as a citizen of the Choctaw Nation; that she has been making said Choctaw Nation her permanent home and that she has been recognized as an Indian Citizen and considered such for over thirty years.

Your petitioner further states that her marriage certificate or a copy of it was forwarded for record to the Commission to the Five Civilized Tribes. Your petitioners grand children by her said husband John Pulaski Krebs are approved and recognized citizens of the Choctaw Nation. Your petitioners husband died while he was away to the Civil War. The records in the offices of the Commissioner to the Five Civilized Tribes will show that your petitioner's grandson John W. Krebs obtained his rights as a citizen of the Choctaw Nation by virtue of the fact that he is a grandson of your petitioner and John Pulaski Krebs, a Choctaw Man, and that your petitioner regis-

tered or attempted to register at the same time that she had John W. Krebs and her other grandchildren, Benjamin Krebs and May Krebs, registered.

Serena Black of Milburn Ind. Ty. was personally acquainted with John William Krebs who was a son of Emaline Krebs and she was also acquainted with John Krebs who is a son of John William Krebs and a grandson of Emaline Krebs and she Serena Black was present when John W. Krebs Jr. was born.

Your petitioner is from Mississippi and has been in the Choctaw and Chickasaw Nations for thrity four yeast. Your petitioner and husband John Pulaski Krebs had four children by their marriage and those children were John William Krebs, Manda Krebs, Stephen Krebs, and Martha Krebs. Of these four children the last three died when young.

Your petitioner is the identical person who married John Pulaski Krebs in Mississippi and she can prove all of the foregoing facts by the witnesses named and by others. In consideration of the facts above stated and of such as are of record your petitioner respectfully requests and prays that she be recognized as an inter-married citizen of the Choctaw Nation and to establish her claims more conclusively, if the Commissioner to the Five Civilized Tribes deems further proof necessary, your petitioner requests and prays that a date for a hearing in her case be set and that she be permitted to bring witnesses and to produce testimony in her behalf.

(signed) Emaline ^{her} X Krebs
mark

United States of America,)
Indian Territory, (S.S.
Central Judicial District.)

Witness to mark.
W. T. Cribbs.

Subscribed and sworn to before me on this the 25th day of Jan. 1906.

(SEAL)

(signed) J. T. Hoover
Notary Public.

My Commission expires on the 26 day of Feb. - 1906.

Indorsed:

In re
Citizenship of Eueline
Krebs as an intermarried
Citizen of the Chectaw
Nation Indian Ter.

Petition.

Department of the Interior,
Commissioner to the Five Civilized Tribes.
Filed Apr. 10, 1906.
Tams Bixby, Commissioner.

Thos. B. Losey
Atty for petitioner.

AFFIDAVIT.

I, Thos. B. Losey, having been duly sworn state upon oath that I this day registered a copy of each of the within petitions to Messrs Mansfield McMurry and Cornish, Attorneys, of South McAlester Indian Territory - the registering receipt being enclosed herewith.

(signed) Thos. B. Losey

Subscribed and sworn to before me this the 30th day of January 1906.

(signed) Geo. F. Robertson
Notary Public.

(SEAL)

My Commission Expires on the 25th day of January 1909.

Indorsed:

Department of the Interior,
Commissioner to the Five Civilized Tribes.
Filed Apr. 10, 1906.
Tams Bixby, Commissioner.

Southern District of)
Indian Territory)

On this the 7th day of April, 1906, personally appeared before me, W. F. McKnight, a Notary Public in and for the District and Territory aforesaid Rev. T. W. Lowry, who being sworn on his oath says; I am 62 years old. My post office address is Healdton, I. T. I am personally acquainted with Mrs. Emaline Krebs of Ego, I. T. I was present and witnessed the marriage of said Emaline Krebs to John P. Krebs which occurred on Aug. 19, 1852 in Winston Co., Miss. and I know do certify that Emaline Krebs now present is the identical Emaline Krebs that married the said John P. Krebs as aforesaid. The said Emaline Krebs is the mother of John William Krebs, and grandmother of John William Krebs Jr., Benjamin Krebs and May Krebs all of whom are on the rolls of Choctaw Nation.

I further certify that I am in ill health and not physically able to appear in person at Muskogee, I. T.

(signed) Rev. Thomas M. Lowery.

Sworn to and subscribed before me this 7th day of April, 1906, and I certify that affiant is of good character and entitled to credit. In testimony whereof I hereunto set my hand and affix my official seal this April 7, 1906. (signed) W. F. McKnight, Notary Public.

(SEAL)

Indorsed:

Department of the Interior,
Commissioner to the Five Civilized Tribes.
Filed Apr. 10, 1906.
Tamm Bixby, Commissioner.

Memo.-217.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the alleged application for the enrollment of Emaline Wilson as a citizen by intermarriage of the Choctaw Nation.

It appears from the record herein that on April 10, 1906, Emaline Wilson appeared before the Commissioner to the Five Civilized Tribes and presented testimony relative to an application alleged to have been made for her enrollment as a citizen by intermarriage of the Choctaw Nation, within the time limited by the provisions of the Act of Congress approved July 1, 1902 (32 Stats., 641).

Emaline Wilson testified that in 1896 she appeared before the Commission to the Five Civilized Tribes at Atoka, Indian Territory, and attempted to make application for the enrollment of herself as a citizen by intermarriage of the Choctaw Nation; that said Commission refused to receive her application for the reason that "My man was never here and recognized"; and that in 1904, she addressed a communication to said Commission relative to said application.

John W. Krebs testified that he is a grandson of the applicant; that about seven or eight years ago he accompanied his grandmother before the Commission and heard her make application for the enrollment of himself, his brother and sister, as citizens by blood of the Choctaw Nation; but that he does not recollect whether or not said Emaline Wilson at that time made application for the enrollment of herself.

It appears from the records of the Commission to the Five Civilized Tribes that on September 9, 1896, in the case entitled "Emaline Krebs vs. Choctaw Nation" (1896 Choctaw Citizenship Docket, Case No. 1197), Emaline Krebs made original application to said Commission for admission to citizenship in the Choctaw Nation as a citizen by intermarriage, claiming her right thereto by virtue of her marriage to John P. Krebs, a one-half blood Choctaw Indian; and that on December 7, 1896, said Commission rendered its decision therein denying said application, from which decision no appeal was taken.

I am of the opinion that the application made to the Commission to the Five Civilized Tribes on September 9, 1896, should be treated as a sufficient application for the enrollment of Emaline Wilson as a citizen by intermarriage of the Choctaw Nation, within the time limited by the provisions of the Act of Congress approved July 1, 1902 (32 Stats., 641, and that the same should now be determined upon its merits, and it is so ordered.

Washoe, Indian Territory,
JUL 10 1906


Commissioner.

7-6010.
OLJ

DEPARTMENT OF THE INTERIOR
COMMISSIONER TO THE FIVE CIVILIZED TRIBES

In the matter of the application for the enrollment of
Emaline Wilson as a citizen by intermarriage of the Choctaw Nation.

D E C I S I O N .

It appears from the record herein that application was duly made to the Commission to the Five Civilized Tribes for the enrollment of Emaline Wilson as a citizen by intermarriage of the Choctaw Nation within the time limited by the provisions of the Act of Congress approved July 1, 1902 (32 Stat. 641).

The evidence in this case shows that the applicant was on August 19, 1862, lawfully married to John Pulaski Krebs, (now deceased), an alleged Choctaw by blood; that at the time of said marriage both persons above mentioned were residents in good faith of the State of Mississippi, and that they lived together continuously as husband and wife in said state until the death of the said John Pulaski Krebs in about the year 1862.

It further appears from the record herein and from the records in possession of this office that John Pulaski Krebs, through whom the applicant claims her intermarried rights, never removed to the Choctaw Nation, Indian Territory, and affiliated with the Choctaw tribe of Indians, nor has he ever been recognized or enrolled as a citizen by blood of the Choctaw Nation, or admitted to Choctaw citizenship by a duly constituted court or committee of said Nation.

I am, therefore, of the opinion that the application made for the enrollment of Emaline Wilson as a citizen by intermarriage of the Choctaw Nation should be denied under the provisions of the Act of Congress approved June 28, 1898 (30 Stat. 495), and it is so ordered.



Commissioner.

Muskogee, Indian Territory.

AUG 11 1906

Muskogee, Indian Territory, August 11, 1906:

Emaline Wilson,

Ego, Indian Territory.

Dear Sir:

Inclosed herewith you will find a copy of the decision of the Commissioner to the Five Civilized Tribes, rendered August 11, 1906, denying your application as a citizen by intermarriage of the Choctaw Nation.

The decision, with the record of proceedings in the case, is this day transmitted to the Secretary of the Interior for review. The final decision of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

Commissioner.

Registered.

Incl. 7-6010.

7-4010

COPY

Muskogee, Indian Territory, August 11, 1906.

Ayers and Lacey,

Attorneys at Law,

Atoka, Indian Territory.

Gentlemen:

Inclosed herewith you will find a copy of the decision of the Commissioner to the Five Civilized Tribes, rendered August 11, 1906, denying the application for the enrollment of Emline Wilson as a citizen by intermarriage of the Choctaw Nation.

The decision, with the record of proceedings in the case, is this day transmitted to the Secretary of the Interior for review. The final decision of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

Samuel D. May

Commissioner.

Registered.

Incl. 7-4010.

7-6010

Muskogee, Indian Territory, August 11, 1906.

Mr. Field, McMurray & Cernish,

Attorneys for Choctaw and Chickasaw Nations,

South McAlester, Indian Territory.

Gentlemen:

Inclosed herewith you will find a copy of the decision of the Commissioner to the Five Civilized Tribes, rendered August 11, 1906, denying the application for the enrollment of Emline Wilson as a citizen by intermarriage of the Choctaw Nation.

The decision, with the record of proceedings in the case, is this day transmitted to the Secretary of the Interior for review. The final decision of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

Commissioner,

Registered.

Incl. 7-6010.

Muskogee, Indian Territory, August 11, 1906.

The Honorable,

The Secretary of the Interior.

Sir:

There is herewith transmitted the record of proceedings in the matter of the application for the enrollment of Eualine Wilson as a citizen by intermarriage of the Choctaw Nation, including the decision of the Commissioner to the Five Civilized Tribes, dated August 11, 1906, denying said application.

Respectfully,

SIGNED

Commissioner.

Encl. 7-9010

Through the
Commissioner of Indian Affairs.

COPY.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

FHE.

D.C. 5189-1907.
I.T.D. 1182-1907.
LRS.

January 22, 1907.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

August 11, 1906, you transmitted the record in the matter of the application for the enrolment of Emaline Wilson as a citizen by intermarriage of the Choctaw Nation, including your decision of the same date, denying said application.

Reporting January 17, 1907 (Land 71629-06), the Indian Office recommends that said decision be approved. A copy of its letter is inclosed.

The Department concurs in said recommendation, and your decision is hereby affirmed.

The papers in the matter have been returned to the Indian Office for its files.

Respectfully,

Thos Ryan.

First Assistant Secretary.

Through the Commissioner
of Indian Affairs.

1 inc. and 2 for Ind. Of.

COPY.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

Land.
71629-1906.

January 17, 1907.

The Honorable,

The Secretary of the Interior,

Sir:

There is enclosed a report from the Commissioner to the Five Civilized Tribes, dated August 11, 1906, transmitting the record relative to the application of Emaline Wilson for enrollment as a citizen of the Choctaw Nation.

On August 11, 1906, the Commissioner held that the application of Emaline Wilson to the Commission to the Five Civilized Tribes for enrollment as a citizen by intermarriage was made within the time specified in Sec. 34 of the Act of July 1, 1902 (32 Stat.L., 641), but that the applicant was not entitled to such enrollment.

The record shows that on August 19, 1852, the applicant was married to John Pulaski Krebs (deceased), an alleged citizen by blood of the Choctaw Nation, in the State of Mississippi, and that they lived continuously in that State until the death of the applicant's husband in 1862.

The Commissioner reports that the applicant is not enrolled as a citizen of the Choctaw Nation.

In view of the fact that the applicant is not an

-2-

enrolled citizen of the Choctaw Nation and was not married in accordance with the tribal laws of that Nation, the decision of the Commissioner adverse to the applicant is recommended for approval.

Very respectfully,

C. F. Larrabee,

Acting Commissioner.

HRD-SD

Memo 217

Muskogee, Indian Territory, February 8, 1907.

Kealing Wilson,

Ego, Indian Territory.

Dear Madam:

You are hereby notified that on January 22, 1907, the Secretary of the Interior affirmed the decision of the Commissioner to the Five Civilized Tribes, rendered August 11, 1906, denying the application for your enrollment as a citizen by intermarriage of the Choctaw Nation.

Respectfully,

Commissioner.

Memo 217

Waskogee, Indian Territory, February 8, 1907.

Ayers & Leroy,

Attorneys at Law,

Atoka, Indian Territory.

Gentlemen:

You are hereby notified that on January 22, 1907, the Secretary of the Interior affirmed the decision of the Commissioner to the Five Civilized Tribes, rendered August 11, 1906, denying the application for the enrollment of Enaline Wilson as a citizen by intermarriage of the Choctaw Nation.

Respectfully,

Commissioner.

Memo 217

Muskogee, Indian Territory, February 8, 1907.

Mansfield, McMurray & Gornish,
Attorneys for Choctaw and Chickasaw Nations,
South McAlester, Indian Territory.

Gentlemen:

You are hereby notified that on January 22, 1907, the Secretary of the Interior affirmed the decision of the Commissioner to the Five Civilized Tribes, rendered August 11, 1906, denying the application for the enrollment of Bealine Wilson as a citizen by intermarriage of the Choctaw Nation.

Respectfully,

Commissioner.

7-6010

Muskogee, Indian Territory, August 23, 1906.

Mailine Krebs,

Ego, Indian Territory.

Dear Madam:

Receipt is hereby acknowledged of your letter of July 16, 1906, asking if letter addressed to you has been returned to this office.

In reply you are advised that on August 11, 1906, the Commissioner to the Five Civilized Tribes rendered his decision refusing your application for enrollment as an intermarried citizen of the Choctaw Nation, and on the same date a copy thereof was forwarded you, under the name of Mailine Wilson, by registered mail at Ego, Indian Territory, and it does not appear that said letter has been returned to this office, nor does it appear that any letter addressed to you by this office has been returned uncalled for.

The record in this case was, on August 11, 1906, transmitted to the Secretary of the Interior and you will be notified of the action taken therein by the Department.

Respectfully,

Commissioner.

COPY.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

PHS.

D.C.5189-1907.
I.T.D.1182-1907.
IRS.

January 22, 1907.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

August 11, 1906, you transmitted the record in the matter of the application for the enrolment of Eualine Wilson as a citizen by intermarriage of the Choctaw Nation, including your decision of the same date, denying said application.

Reporting January 17, 1907 (Land 71629-06), the Indian Office recommends that said decision be approved. A copy of its letter is inclosed.

The Department concurs in said recommendation, and your decision is hereby affirmed.

The papers in the matter have been returned to the Indian Office for its files.

Respectfully,

Thos Ryan. 4

First Assistant Secretary.

Through the Commissioner
of Indian Affairs.

1 inc. and 2 for Ind. Of.

COPY.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

Land.
71629-1906.

January 17, 1907.

The Honorable,

The Secretary of the Interior,

Sir:

There is enclosed a report from the Commissioner to the Five Civilized Tribes, dated August 11, 1906, transmitting the record relative to the application of Enaline Wilson for enrollment as a citizen of the Choctaw Nation.

On August 11, 1906, the Commissioner held that the application of Enaline Wilson to the Commission to the Five Civilized Tribes for enrollment as a citizen by intermarriage was made within the time specified in Sec. 34 of the Act of July 1, 1902 (32 Stat.L., 641), but that the applicant was not entitled to such enrollment.

The record shows that on August 19, 1862, the applicant was married to John Pulaski Krebs (deceased), an alleged citizen by blood of the Choctaw Nation, in the State of Mississippi, and that they lived continuously in that State until the death of the applicant's husband in 1862.

The Commissioner reports that the applicant is not enrolled as a citizen of the Choctaw Nation.

In view of the fact that the applicant is not an

enrolled citizen of the Choctaw Nation and was not married in accordance with the tribal laws of that Nation, the decision of the Commissioner adverse to the applicant is recommended for approval.

Very respectfully,

C. F. Larrabee,

Acting Commissioner.

HRD-SU

7-6010

Muskogee, Indian Territory, April 1, 1907.

Esmerline Krebs,

Caney, Indian Territory.

Dear Madam:

Receipt is hereby acknowledged of your letter of March 23, 1907, in which you request that your mail be sent to you at Caney, Indian Territory as you removed there from Ego.

You are advised that the change of your post office has been made a matter of record.

Respectfully,

Acting Commissioner.

Choc 6011

Eliza Choate

Refused Oct. 2, 1906

Trans to this jacket July 16, 1906

6011

COPY

NEAL & LONDON
Attorneys at Law
Fort Smith, Ark.

March 31, 1906.

Hon. Commissioner of Indian Affairs,
Washington, D. C.

Dear Sir:

We have a client, one Mr. Choate, of Wister, I. T., who is a one-half blood Choctaw Indian. She attempted to make application for enrollment before the Dawes Commission at its sitting at Wister in the beginning of the enrollment of the Choctaw Indians. She not being able to give Col. A. S. McKennon, the then acting Commissioner, satisfactory explanation as to her right to citizenship she was advised to make room for some other person, and there seems to have been no record made by Col. McKennon.

She is a very ignorant Choctaw woman, and her husband is equally as ignorant. They went back to the mountains and have since that time resided there and made no effort, or at least no very well defined effort, to be enrolled since.

The fact of her Indian blood cannot be disputed, and it is no trouble to show by competent proof that she is a half-blood Indian. The facts are, her father, a full blood Choctaw Indian, was convicted of murder in the Choctaw Courts, and was executed under the Choctaw Law. She was a child at that time, and was raised by a family of full blood Indians who took her at that time.

If proper proof was made of the facts above stated, would she be permitted to make the proof in her case and establish her rights to citizenship in the Cherokee Nation?

An early reply will be appreciated.

Respectfully,

Neal & London.

DEPARTMENT OF THE INTERIOR
WASHINGTON.

D.C. 20444-1905.
I.T.D. 3708-1905.

APR. 14, 1905.

LRS

Commission to the Five Civilized Tribes,
Muskogee, Indian Territory.

Gentlemen:

There is inclosed herewith, for report and recommendation, a communication dated March 31, 1905, from Messrs. Neal and London, of Fort Smith, Arkansas, relative to the attempt of Mrs. Choate, of Weston, Indian Territory, to make application before your Commission for enrollment as a citizen of the Choctaw Nation.

A copy of Indian Office letter of April 11, 1905, forwarding said letter, is also inclosed.

Respectfully,

2 inclosures.

THOS. RYAN,
Acting Secretary.

C O P Y.

DEPARTMENT OF THE INTERIOR,

OFFICE OF INDIAN AFFAIRS,

WASHINGTON. April 11, 1905.

Land.
24866-1905.

The Honorable,

The Secretary of the Interior:

Sir:

I have the honor to invite your attention to letter of Messrs. Neal and London, of Fort Smith, Arkansas, of March 31, saying they have a client, a Mrs. Choate, of Weston, Indian Territory, who is a one-half blood Choctaw Indian; that she attempted to make application for enrollment before the Dawes Commission at a sitting at Wister, in the beginning of the enrollment of the Choctaw Indians; and that she not being able to give Commissioner McKennon a satisfactory explanation as to her right to citizenship, she was advised to make roll for some other person, and there seems to have been no record made by Commissioner McKennon.

The attorneys further say this woman is very ignorant and her husband is equally ignorant. They went back to the mountains after this interview with the commissioner, and have since that time resided there and made no effort, or at least no very well defined effort to be enrolled. They ask if something cannot be done in her behalf.

I recommend that this letter be forwarded to the

(2)

Commission to the Five Civilized Tribes for report as to the facts and recommendation.

Very respectfully,

C. F. Larrabee,
Acting Commissioner.

EEH-D

Muskogee, Indian Territory, May 12, 1905.

The Honorable,

The Secretary of the Interior,

Sir:

Receipt is hereby acknowledged of Departmental letter of April 14, 1905 (I T D 3708-1905) transmitting, for report and recommendation, a communication of March 31, 1905, from Messrs. Neal & London, of Fort Smith, Arkansas, relative to an attempt of Mrs. Choate of Wister, Indian Territory, to make application before this Commission for enrollment as a citizen of the Choctaw Nation.

Messrs. Neal & London, in their letter, allege that Mrs. Choate is a one half blood Choctaw Indian, and attempted to make application for enrollment at the appointment of the Commission at Wister, Indian Territory, in the beginning of the work of enrollment of Choctaw Indians, but not being able to give A. S. McKennon, who was then Commissioner, satisfactory explanation of her right to citizenship, she was advised to make room for some other person, but there seems to have been no record made of her attempted application.

They further state that both Mrs. Choate and her husband are ignorant and that they then went back to the mountains and have there resided, making no further well defined effort for the enrollment of the said Mrs. Choate.

They allege that the fact of her Indian blood cannot be disputed and it can be shown by competent proof that she is a half blood Choctaw Indian and that her father, a full blood Choctaw Indian, was convicted of murder in the Choctaw courts and executed under the Choctaw law, and that she was a child at that time and was taken and raised by a family of full bloods.

Reporting in this matter I have the honor to advise that the letter of Messrs. Neal & London does not give the Christian name of the Mrs. Choate referred to, nor the names of her husband and children, the names of her parents, nor any other information which would assist in identifying her upon our records as an applicant for enrollment in the Choctaw Nation.

It appears however that there are a number of women by the name of Choate upon our records, and there is submitted below a list of a number of such women whose married name is Choate, together with their roll numbers upon the approved roll of citizens by blood of the Choctaw Nation:

NAME.	ROLL NUMBER.
Jency Choate	2875
Sophia Choate	2878
Sallie Choate	2881
Maud Choate	3078
Patsy Choate	4596
Klasie Choate	5596
Sillen Choate	7183
Abbie Choate	7652

I have therefore, the honor to recommend that Messrs. Neal & London be advised that if they will furnish the Christian name of the Mrs. Choate concerning whom they inquire, the names of her parents, the county of the Choctaw Nation to which she and her parents belonged, where she resided when she drew the leased district payment and under what name the same was drawn, where she was living when the 1896 census roll of the Choctaw Nation was made, the name of her husband and whether he claims to be a citizen by blood of the Choctaw Nation, and any other information they may possess which will aid in identifying Mrs. Choate upon our records, the matter of their inquiry will receive further consideration.

The communication of Messrs. Neal & London is herewith returned.

Respectfully,

Through the Commissioner
of Indian Affairs.

Tams Bixby
Chairman.

A. B 1-12 (2)

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

GR

LLB

D.C. 42507-1905.
I.T.D. 3708, 8668,
7864-1905.

September 7, 1905.

LRS

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

Referring to departmental letter dated April 14, 1905, (I.T.D 3708), and the report of the Commission to the Five Civilized Tribes in reply thereto dated May 12, 1905, relative to an alleged attempt made by Eliza Choate, of Wister, Ind. T., to apply for her enrollment as a citizen by blood of the Choctaw Nation, there is forwarded herewith for your recommendation and report thereon, the petition of Eliza Choate, with letters of her attorneys, Messrs. Neal & London, of Fort Smith, Ark., relative thereto.

Respectfully,

THOS. RYAN,
Acting Secretary.

3 inclosures.

Through the
Commissioner of Indian Affairs.

COPY

Ft. Smith, Ark., June 1, 1905.

Hon. Commissioner of Indian Affairs,
Washington, D. C.

Dear Sir:-

Enclosed find petition of Eliza Choate, together with affidavits in support of the same. Eliza Choate is unable to take witnesses to Muskogee to prove the facts testified to by these witnesses, but will appear with her testimony to make out her right to citizenship if allowed to appear before the Commission, and at that time will show that she attempted to enroll, as stated in this petition.

We believe that if you knew the condition of this woman financially, and her grade of intelligence that you would not hesitate to order her before the commission to the end that justice be done her.

Very respectfully,

John London.

TO THE HONORABLE COMMISSIONER OF INDIAN AFFAIRS,
WASHINGTON, D. C.

In the matter of the enrollment
of Eliza Choate as a member of the
Choctaw Tribe of Indians.

MOTION ASKING THAT HER NAME BE PLACED UPON THE ROLL OF THE CHOCTAW
TRIBE OF INDIANS.

Comes Eliza Choate and moves the Honorable Secretary of the Interior to direct the commission to the Five Civilized Tribes to hear and determine her right to citizenship in the Choctaw Nation, Indian Territory, for cause says that she is a half blood Choctaw Indian, being the daughter of Sam Page and Sarah Page, who were lawfully married. That Sam Page was a full blood Choctaw Indian and was regularly recognized as a member of the Choctaw Tribe of Indians, and recognized in the Choctaw Nation until in the year 18____ when he was tried by the Choctaw Tribal Court charged with the crime of murder, and was convicted and sentenced to death. That before the date fixed for the execution he went to the State of Arkansas where he died in a few months after, and before the date set for his execution.

That this occurred when your petitioner was a small child; that she was taken and raised by a Choctaw family named Hanatubes until she was 15 years old, when she married a man named Smith; that she was always recognized as an Indian by the Tribe. That in the year of 1893 or there about, she was enrolled together with her child, Mary Smith, at Hartsheer in the Choctaw Nation, at a time when Simon Hampton, Emerson James and some other men were enrolling the members of the Choctaw Tribe preparing to pay out the lease District money; that at the time she and her child were enrolled there were present Mrs. John Christian and Mrs. Simon Hampton and Mrs. Blair, and a Frank Baker. That some time after she was enrolled she

received a letter from Green McCurtain telling her that if she would execute a power of attorney to Simeon Hampton that he would pay her and her child one hundred and three dollars (\$103.00) each as their share of the Lease District Money.

That pursuant to said letter she did execute and send the power of attorney, but that she never thereafter heard from either McCurtain or Hampton; that she never received the money promised in the letter.

Petitioner says that she is wholly illiterate, that she cannot read or write. That in the year of 1896 she lived in the mountains in the Choctaw Nation, and that she never knew there was being prepared by the Dawes Commission a roll of the members of the Choctaw Tribe of Indians. That she did not know that it was necessary to appear before anybody for the purpose of enrolling, and that her ignorance of the matter caused her to fail to apply for enrollment in 1896; but she says that she did appear before the Hon. A. S. McKennon, at Wister, I. T., in 1898 or 1899, and asked to be enrolled, and made the above statement to him, and that because of the objection offered by a member of the Choctaw Commission, who was a cousin to the man her father was sentenced to death for killing, he, McKennon, told her to get out, and that they had no use for her. She further states that she tried to enroll at three other different times and offered to put witnesses on the stand to prove that she was a half blood Choctaw Indian, but that each time she was refused by the Commissioner in charge, and that no less than twice she was told by the Choctaw Enrolling Commissioner who accompanied the Dawes Commission, that Eliza Smith was marked dead on the rolls, and that she could not be enrolled because of that.

WHEREFORE, she asks that you consider the facts herein, and the affidavit hereto attached, and if upon consideration of the same you consider the petitioner entitled to a hearing, she

Prays that you direct the Commission to the Five Civilized Tribes to set a date for a hearing of her case to the end that she submit proof to show that she is entitled to be enrolled as a member of the Choctaw Tribe of Indians, and entitled to share in the distribution of the land and money of said Tribe, and for other and proper relief.

her
Eliza X Choate,
mark

J. J. Riggs witness
Notary Public.

(Seal)

Subscribed and sworn to before me a Notary
Public on this 3rd day of October 1903.

J. J. Riggs,
Notary Public.

TO THE HONORABLE COMMISSIONER OF INDIAN AFFAIRS,

WASHINGTON, D. C.

In the matter of the enrollment of Eliza Choate as a member of the
Choctaw Tribe of Indians.

A F F I D A V I T.

Comes now Ed Choate and on his oath states that he is 62 years of age and a resident of Wister, I. T.; that in the year of 1898 or 1899 he was present at the office of the enrolling commission of the Choctaw Nation at Wister, Indian Territory, when Eliza Choate made application for enrollment to Hon. A. S. McKennon and was refused a hearing; that she stated to him (McKennon) that she was a half blood Choctaw Indian, and asked the Commissioner what would be necessary for her to do to be enrolled, when one of the Commissioners for the Choctaw Nation said he desired to enter objection to her enrollment. Mr. McKennon then told her to get out of the way and make room for some other person,

Ed Choate

Subscribed and sworn to before me this the 23 day of May,
A. D., 1905.

Leonard A. Wiggul

Notary Public. (Seal)

My commission expires on the 29 day of January, 1906.

TO THE HONORABLE COMMISSIONER OF INDIAN AFFAIRS,
WASHINGTON, D. C.

In the matter of the enrollment of Eliza Choate as a member of the
Choctaw Tribe of Indians.

AFFIDAVIT.

Comes now T. V. Sprinkel and on his oath states that he is 40 years of age and a resident of Wister, Ind. Ter.; that in the year of 1898 or 1899 he was present at the office of the enrolling Commission of the Choctaw Nation at Wister, Indian Territory, when Eliza Choate made application for enrollment to Hon. A. S. McKennon and was refused a hearing; That she stated to him (McKennon) that she was a half blood Choctaw Indian, and asked the Commissioner what would be necessary for her to do to be enrolled, when one of the Commissioners for the Choctaw Nation said he desired to enter objection to her enrollment. Mr. McKennon then told her to get out of the way and make room for some other person.

T. V. Sprinkel

Subscribed and sworn to before me on this the 29 day of
May, A. D., 1905.

Leonard A. Wiggal

Notary Public, (Seal)

My commission expires on the 29 day of Jan., 1906.

COPY.

Muskogee, Indian Territory, September 27, 1906.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to acknowledge receipt of Departmental letter of September 7, 1906 (I T D 3708, 6668, 7864-1906), referring to Departmental letter of April 14, 1906, and to the report of the Commission to the Five Civilized Tribes in reply thereto, of May 12, 1906, relative to an attempt made by Eliza Choate, of Wister, Indian Territory, to apply for her enrollment as a citizen by blood of the Choctaw Nation. With Departmental letter of September 7, 1906, there was forwarded for report and recommendation thereon, a petition of Eliza Choate, with letters of her attorneys, Messrs. Neal & London, of Fort Smith, Arkansas.

Messrs. Neal & London, in their letter of March 21, 1906, which is addressed to the Commissioner of Indian Affairs, allege that Mrs. Choate is an one-half blood Choctaw Indian and attempted to make application for enrollment at an appointment of the Commission to the Five Civilized Tribes at Wister, Indian Territory, at the beginning of the enrollment of Choctaw Indians, but not being able to furnish A. E. McKennon, who was then Commissioner,

(2)

a satisfactory explanation of her right to Choctaw citizenship, was advised to make room for some other person and no record was made of her attempted application.

Reporting upon this letter, the Commission to the Five Civilized Tribes on May 12, 1903, advised the Department that a number of female citizens by blood of the Choctaw Nation by the name of Choate appeared upon its records and submitted a list of a number of such women, together with their final roll numbers as appearing upon the schedules approved by the Secretary of the Interior.

The Commission to the Five Civilized Tribes recommended that Messrs. Neal & London be advised that if they would furnish the Christian name of Mrs. Choate, the names of her parents, the county of the Choctaw Nation to which she and her parents belonged, where she resided when she shared in the Leased District Payment in 1893, under what name the same was drawn, where she was living when the 1896 census roll of the citizens of the Choctaw Nation was prepared, the name of her husband, and whether he claims to be a citizen by blood of the Choctaw Nation, the matter of her inquiry would then receive proper consideration.

On June 1, 1903, John London addressed a letter to the Commissioner of Indian Affairs, enclosing a petition of Eliza Choate, in which she alleges that she is an one-half blood Choctaw Indian, the daughter of Sam and Sarah Page; that Sam Page was a

(3)

full blood Choctaw Indian, regularly recognized as a member of the Choctaw tribe of Indians; that he was convicted in the Choctaw tribal courts of the crime of murder and was sentenced to death, but before the date fixed for execution, went to the State of Arkansas, where he died; that at the time of the conviction of Sam Page, the petitioner Eliza Cheate was a small child and was taken and raised by a Choctaw family by the name of Hanatubee until she was sixteen years of age, when she married a man named Smith; that in the year 1893 she was enrolled with one child, named Mary Smith, at Hartshorne, Indian Territory, when the roll was being prepared for the distribution of the Leased District money; that in 1896 she lived in the mountains of the Choctaw Nation, but on account of ignorance failed to apply for enrollment to the tribal authorities of the Choctaw Nation.

The petitioner further alleges that in 1898 or 1899 she appeared before A. S. McKennon, a member of the Commission to the Five Civilized Tribes, at Wister, Indian Territory, and made application to be enrolled as a citizen by blood of the Choctaw Nation, but on account of objection offered by some member of the Choctaw Tribal Commission she was told to get out, as they had no use for her. She further alleges that on three subsequent occasions she appeared before the Commission to the Five Civilized Tribes and offered to present witnesses to prove that she was an one-half

blood Choctaw Indian, but was on those occasions refused a hearing and was told by the Choctaw Tribal Commission that Eliza Smith was marked dead on the tribal rolls and for that reason she, the petitioner, could not be enrolled. In concluding, she prays that the Commissioner to the Five Civilized Tribes be directed to set a date for a hearing in her case, to the end that she may submit proof to show that she is entitled to be enrolled as a member by blood of the Choctaw tribe of Indians.

Attached to the petition are the affidavits of Ed Choate and T. V. Sprinkel to the effect that they were present at Vister, Indian Territory, in 1898 or 1899 when Eliza Choate sought to make application for enrollment and was refused a hearing.

The petition indicates that the maiden name of the petitioner was Eliza Page; that she lived with a Choctaw family named Hamatubee until she was sixteen years of age, when she married a man named Smith, and that at the time of the alleged application in 1898 or 1899 she was named Eliza Choate.

I have made a careful and thorough examination of the 1885 census roll, the 1893 Leased District Payment roll and the 1896 census roll of the citizens of the Choctaw Nation and am unable to identify the petitioner upon any of said rolls under the name of Eliza Page, Eliza Hamatubee, Eliza Smith or Eliza Choate.

(5)

With the return of the letters and petition, I have the honor to respectfully recommend that if the petitioner was ever at any time recognized and enrolled by the tribal authorities of the Choctaw Nation as a citizen thereof and attempted to make application for enrollment before the Commission to the Five Civilized Tribes, at Wister, Indian Territory, in 1898, she and her attorneys, Messrs. Neal & London, be advised that it will be necessary for her to personally appear before the Commissioner to the Five Civilized Tribes at his office at Muskogee, Indian Territory, and present the testimony of reliable citizens of the Choctaw Nation who have actual knowledge of her tribal recognition and enrollment and of the fact that application was attempted to be made by her as alleged in the petition.

Respectfully,

SIGNED

Jane Birby.

Commissioner.

Through the Commissioner
of Indian Affairs.

CP 21-1.

Copy.

4094-1906.
I.T.D. 7864,
18462-1905.

SECRETARY'S OFFICE
DEPARTMENT OF THE INTERIOR
WASHINGTON.

GR
LEB

LRS

January 27, 1906.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

September 27, 1905, you reported relative to certain alleged applications made for enrollment of Eliza Cheate as a citizen by blood of the Choctaw Nation.

You are requested to afford applicant, Eliza Cheate, a resident of Wister, Ind. T., an opportunity to be heard at the most convenient place, to be fixed by you, relative to certain alleged attempts to be enrolled by the Commission to the Five Civilized Tribes as a citizen by blood of the Choctaw Nation, and as to alleged tribal recognition as a Choctaw citizen.

The recommendation of the Indian Office made November 29, 1905, in the matter, together with petition, are inclosed.

Respectfully,

Thos Ryan,

First Assistant Secretary.

2 inclosures.

COPY

DEPARTMENT OF THE INTERIOR
OFFICE OF INDIAN AFFAIRS
WASHINGTON.

Land
78278-1905.

Nov. 29, 1905.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to forward letter of the Commissioner to the Five Civilized Tribes, of September 27, 1905, acknowledging receipt of Departmental letter of September 7, 1905, --I.T.D. 3708; 6668, and 7864-1905 -- referring to Department letter of April 14, 1905, and to report of the Commission to the Five Civilized Tribes in reply thereto, of May 12, 1905, relative to the attempt made by Eliza Choate, of Wister, Indian Territory, to apply for her enrollment as a citizen by blood of the Choctaw Nation.

With Departmental letter of September 7, 1905, there was forwarded, for report and recommendation thereon, petition of Eliza Choate with letter of her attorneys, Messrs. Neal and London, of Fort Smith, Arkansas.

The Commissioner says Messrs. Neal and London in their letter of March 31, 1905, which was addressed to this office, alleged that Eliza Choate, a one-half blood Choctaw Indian, attempted to make application for enrollment at an appointment of the Commission to the Five Civilized Tribes at Wister at the beginning of the enrollment of Choctaw Indians, and upon being unable to furnish A. S. McKennen, who was then Commissioner, a satisfactory statement of

her claim to Choctaw citizenship, was advised to make room for some other person, and no record was made of her attempted application.

Reporting upon this letter the Commission to the Five Civilized Tribes on May 12, 1905, advised the Department that a number of female citizens by blood of the Choctaw Nation by the name of Choate appeared upon its records, and submitted a list of the names of citizen women, together with their final roll numbers, as being upon the schedule approved by the Department.

The Commission also recommended that Messrs. Neal and Lendon be advised that if they would furnish the Christian name of Mrs. Choate, the names of her parents, the County of the Choctaw Nation to which she and her parents belonged, where she resided when she shared in the leased district payment of 1893, under what name the money was drawn, where she was living when the 1896 census roll of the citizens of the Choctaw Nation was prepared, the name of her husband, and whether he claimed to be a citizen by blood of the Choctaw Nation, the matter of her inquiry would then receive proper consideration.

On June 1, 1905, John Lendon wrote a letter to this Office enclosing the petition of Eliza Choate, in which she alleged that she was a one-half blood Choctaw Indian, the daughter of Sam and Sarah Page; that Sam Page was a full blood Choctaw Indian, and a regularly recognized member of the Choctaw Tribe; that he was convicted in the Choctaw tribal courts of the crime of murder and was sentenced

to death, but before the day fixed for the execution went to the State of Arkansas where he died; that at the time of the conviction of Sam Page the petitioner, Eliza Cheate, was a small child and was taken and raised by a Choctaw family named Hanatubee until she was 16 years of age when she married a man named Smith; that in the year 1893 she was enrolled with her child, Mary Smith, at Wartsheerne, Indian Territory, when the roll was being prepared for the distribution of the leased district money; that in 1896 she lived in the mountains of the Choctaw Nation, but on account of ignorance she failed to apply for enrollment to the tribal authorities of the Choctaw Nation.

Mr. Bixby says the petitioner further alleges that in 1898 or 1899 she appeared before A. S. McKennon, a member of the Commission to the Five Civilized Tribes, at Wister, and made application to be enrolled as a citizen by blood of the Choctaw Nation, but on account of objection thereto offered by some member of the Choctaw tribal Commission she was told to get out as they had no use for her. She further alleges that on three subsequent occasions she appeared before the Commission to the Five Civilized Tribes and offered to present witnesses to prove that she was a one-half blood Choctaw Indian, but was on these occasions refused a hearing and was told by the Choctaw Tribal Commission that Eliza Smith was marked "dead" on the tribal rolls and for that reason she, the petitioner, could not be enrolled. In conclusion she prays that the Commissioner to the Five Civilized Tribes be directed to set a day for a hearing in her case, to the end that she may submit proof to show that she is en-

titled to enrollment as a citizen by blood of the Choctaw Tribe of Indians.

Attached to the petition are affidavits of Ed Choate and T. V. Sprinkel to the effect that they were present at Wister, Indian Territory, in 1898 or 1899 when Eliza Choate sought to make application for enrollment, and was refused a hearing.

Mr. Bixby says the petition and the accompanying papers show that her maiden name was Eliza Page; that she lived with a Choctaw family named Hanatubee until she was 16 years of age when she married a man named Smith, and that at the time of the alleged application, in 1898 or 1899, she was named Eliza Choate..

He has made a careful and thorough examination of the 1885 census roll, the 1893 leased district payment roll, and the 1896 census roll of citizens of the Choctaw Nation and is unable to identify the petitioner upon any of the rolls mentioned under the names of Eliza Page, Eliza Hanatubee, Eliza Smith, or Eliza Choate.

With the return of the letters and petition the Commissioner recommends that if the petitioner was ever at any time recognized and enrolled by the tribal authorities of the Choctaw Nation as a citizen thereof, and attempted to make application for enrollment before the Commission to the Five Civilized Tribes, at Wister, in 1899, she and her attorneys, Messrs. Neal and London be advised that it will be necessary for her to personally appear before the Commissioner at his office at Muskogee and present testimony of reliable citizens of the Choctaw Nation who have actual knowledge of her

tribal recognition and enrollment and of the fact that application was attempted to be made by her, as alleged in the petition.

Messrs. Neal and Lenden state that the petitioner is in the very depths of poverty with no money with which to prosecute her claim. This being true, I cannot censure in the recommendation of the Commissioner that she be required to appear at Muskogee with her witnesses to submit proof of her tribal enrollment and attempts to secure enrollment by the Commission to the Five Civilized Tribes.

I therefore recommend that she and her attorneys be notified that she will be given an opportunity to submit such testimony as she can produce at a time and place in her section of the Choctaw Nation convenient to her as well as the Commissioner, to make proof before him of the matters she alleges, relative to her right to enrollment.

Very respectfully,

C.F. Larrabee,

Acting Commissioner.

(E.B.H.) P.

COPY.

Muskogee, Indian Territory, March 8, 1906.

Eliza Choate,

Wister, Indian Territory.

Dear Madam:

I enclose herewith for your information, copy of Departmental letter of January 27, 1906 (I.T.D. 7864, 18462-1906), accompanied by the report of the Acting Commissioner of Indian Affairs of November 29, 1905 (Land 78276-1905), returning to the Commissioner to the Five Civilized Tribes a petition in reference to the right to enrollment of yourself as a citizen of the Choctaw Nation.

The Acting Commissioner of Indian Affairs recommends that you and your attorneys be notified that you will be given an opportunity to submit such testimony as you can produce, at a time and place in your section of the Choctaw Nation, convenient to you as well as the Commissioner, to make proof before him of the matters you allege relative to your right to enrollment.

The Department directs that you be afforded an opportunity to be heard at the most convenient place, to be fixed by the Commissioner, relative to certain alleged attempts to be enrolled by the Commission to the Five Civilized Tribes as a citizen by blood of the Choctaw Nation, and as to alleged tribal recognition as a Choctaw citizen.

Eliza Cheate--2.

In conformity with the instructions of the Department, you are hereby advised that the Commissioner to the Five Civilized Tribes will, at the United States Postoffice at Winter, Indian Territory, on Wednesday, March 28, 1906, at ten o'clock A. M., hear such testimony as may be submitted by you in reference to your alleged application to be enrolled by the Commission to the Five Civilized Tribes, as a citizen by blood of the Cheate Nation, and as to your alleged tribal recognition as a Cheate citizen.

Respectfully,

SIGNED *Wm. O. Beall.*

Acting Commissioner.

BPS c/s,

Registered.

COPY.

Wuskegee, Indian Territory, March 8, 1906.

Neal & London,
Attorneys at Law,
Fort Smith, Arkansas.

Gentlemen:

I enclose herewith for your information, copy of Departmental letter of January 27, 1906 (I.T.D. 7864, 16462-1906), accompanied by the report of the Acting Commissioner of Indian Affairs of November 29, 1905 (Land 78278-1905), returning to the Commissioner to the Five Civilized Tribes a petition in reference to the right to enrollment of Elisa Cheate as a citizen of the Choctaw Nation.

The Acting Commissioner of Indian Affairs recommends that Elisa Cheate and her attorneys be notified that she will be given an opportunity to submit such testimony as she can produce, at a time and place in her section of the Choctaw Nation, convenient to her as well as the Commissioner, to make proof before him of the matters she alleges relative to her right to enrollment.

The Department directs that Elisa Cheate be afforded an opportunity to be heard at the most convenient place, to be fixed by the Commissioner, relative to certain alleged attempts to be en-

2.

rolled by the Commission to the Five Civilized Tribes as a citizen by blood of the Choctaw Nation, and as to alleged tribal recognition as a Choctaw citizen.

In conformity with the instructions of the Department, you are hereby advised that the Commissioner to the Five Civilized Tribes will, at the United States Postoffice at Wister, Indian Territory, on Wednesday, March 28, 1906, at ten o'clock A. M., hear such testimony as may be submitted by Eliza Cheate in reference to her alleged application to be enrolled by the Commission to the Five Civilized Tribes, as a citizen by blood of the Choctaw Nation, and as to her alleged tribal recognition as a Choctaw citizen.

Respectfully,

SIGNED *Wm. O. Beall.*

Acting Commissioner.

BPS 2/3
Registered.

COPY.

Muskogee, Indian Territory, March 8, 1906.

Mansfield, McMurray & Cornish,

Attorneys for the Choctaw and Chickasaw Nations,

South McAlester, Indian Territory.

Gentlemen:

I enclose herewith for your information, copy of Departmental letter of January 27, 1906 (I.T.D. 7864, 16462-1905), accompanied by the report of the Acting Commissioner of Indian Affairs of November 29, 1905 (Land 78278-1905), returning to the Commissioner to the Five Civilized Tribes a petition in reference to the right to enrollment of Eliza Choate as a citizen of the Choctaw Nation.

The Acting Commissioner of Indian Affairs recommends that Eliza Choate and her attorneys be notified that she will be given an opportunity to submit such testimony as she can produce, at a time and place in her section of the Choctaw Nation, convenient to her as well as the Commissioner, to make proof before him of the matters she alleges relative to her right to enrollment.

The Department directs that Eliza Choate be afforded an opportunity to be heard at the most convenient place, to be fixed by the Commissioner, relative to certain alleged attempts to be enrolled by the Commission to the Five Civilized Tribes as a citizen

2.

by blood of the Choctaw Nation, and as to alleged tribal recognition as a Choctaw citizen.

In conformity with the instructions of the Department, you are hereby advised that the Commissioner to the Five Civilized Tribes will, at the United States Postoffice at Wister, Indian Territory, on Wednesday, March 28, 1906, at ten o'clock A. M., hear such testimony as may be submitted by Elisa Ghente in reference to her alleged application to be enrolled by the Commission to the Five Civilized Tribes, as a citizen by blood of the Choctaw Nation, and as to her alleged recognition as a Choctaw citizen.

Respectfully,

SIGNED *Wm. O. Beall.*

Acting Commissioner.

BPS 8/4
Registered.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.
WISTER, INDIAN TERRITORY, MARCH 28, 1906.

In the matter of the alleged application for enrollment of
Eliza Choate as a citizen by blood of the Choctaw Nation.

APPEARANCES: John London, representing Neal & London of
Fort Smith, Arkansas, appears on behalf of the
applicant. No appearance on behalf of the Choctaw
and Chickasaw Nations.

Eliza Choate, being first duly sworn testified as follows:

BY THE COMMISSIONER:

- Q How old are you? A 35 Years old.
Q What is your postoffice address? A Wister, Indian Territory.
Q What is the name of your father? A Sam Page.
Q What is the name of your mother? A Sallie Page.
Q Are either of them living? A No sir, they died when I was
small.
Q Both died when you were small? A Yes sir.
Q In what County of the Choctaw Nation were you born?
A I can't tell you.
Q Where were you living at your earliest recollection?
A Near South McAlester, Indian Territory.
Q South McAlester is in Coal County, is it not? A Yes.
Q How old were you at that time? A Small; I don't recollect
anything about it hardly.
Q Ten or twelve years old? A Nine or ten.
Q Were your parents dead at that time? A Yes, my parents
were dead at infancy.
Q How long did you continue to live near South McAlester?
A About a year.
Q Where did you go? A From here to yonder, just wherever the
folks took me.
Q Who were the folks? A Hung Toovey.
Q Full name? Hung Toovey.
Q Were they Choctaws? A Yes sir.
Q What is the name of Hung Toovey's wife? A I don't know.
Q What did you call her? A Sallie.
Q Do you have any idea of dates? A No sir.
Q Do you know what year this is? A No, I don't have any idea.
Q Can you count? A No, I have no education at all.
Q You were about nine or ten years old when you left South
McAlester? A Yes sir.

- Q Where did you go from there? A I don't recollect.
Q What is the next place you remember to have resided at?
A I don't know, just from place to place.
Q How long have you lived at your present postoffice?
A Six years.
Q Where did you live before you came to Wister? A Wilburton.
Q How long did you live at Wilburton? A One year.
Q Where did you live before you lived at Wilburton?
A Just lived on the road, mighty near it---just dragged around in the hills, and everywhere else.
Q Did you not have a place of residence? A No sir, we did not have a home. We just lived at sawmills, and wherever he got a job.
Q How long was it after your birth until your father died?
A About two months.
Q How long after your birth until your mother died?
A About four months. There was not much difference in their deaths.
Q Where were you living in 1893? I was living across the mountain.
Q Near what place? A Hartshorne.
Q In what county? A I can't you.
Q Who were you living with at that time? A My husband.
Q What is your husband's full name? A His name was John Smith.
Q How old were you when you married Smith? A Fourteen.
Q Where were you living at that time? A Near South McAlester.
Q You think about thirteen years ago, you were living near Hartshorne? A Yes sir.
Q How far from there? A About twelve miles out in the hills.
Q Do you remember the time the Choctaws were paid the 1893 Lease District Money? A Yes sir.
Q Where were you living at that time? A Close to Hartshorne.
Q Did you draw any of that money? A No sir.
Q Why did you not? A I was not able to go see about it, and didn't have any one who would see about it for me. I had no education; I knew they drew, though.
Q Where were you living in 1896 -- 10 years ago? A I can't tell you that.
Q Where did you go from near Hartshorne, 13 years ago?
A Hot Springs.
Q How long did you stay there? A Six months.
Q From there where did you go? A Wilburton.
Q How long did you live at Wilburton? A About a year.
Q Do you recollect where you went to from Wilburton?
A No sir, I don't.
Q Have you been living along the line of the Choctaw railroad for the last fifteen years? A Yes sir.
Q Right between Wister and South McAlester? A Yes sir.
Q Do you remember the enrollment by the tribal authorities upon the 1896 Census Roll?
A No sir; I don't remember that.
Q Do you believe you were enrolled at that time?
A Yes, I believe I enrolled at that time.

- Q Who enrolled you? A Simeon Hampton.
Q How did Hampton happen to enroll you?---

MR. LONDON:

The witness does not understand what you mean; she is mistaken in regard to the previous question.

A Of course, it was as he stated.

COMMISSIONER:

- Q Who were you living with in 1896, at the time they made this Choctaw Census Roll? A Smith.
Q Do you believe you were enrolled on the 1893 Leased District Payment Roll? A Yes, when they enrolled up there I enrolled with them.
Q Where? A At Hartshorne.
Q Did you draw any money? A No sir.
Q Who was with you at that time? A Mrs. Hampton and Mrs. Carpenter.
Q What is Mrs. Hampton's first name? A I don't know her first name.
Q What is her husband's name? A I don't know.
Q What is the other woman's first name?
A Her name was Carpenter, I don't know the rest. They were both widow women at that time.
That was at a time when they were paying money? A Yes sir.
Q Why didn't you draw your money at that time? A I was not able to go to draw it; they moved the camp to Wilburton.
Q Did you see the parties that were making the payment?
A No sir, I never seen them.
Q Do you remember of having ever appeared before the Choctaw tribal authorities in 1896 to enroll on the 1896 census roll? A No sir.
Q Did you ever at any time come before any Choctaw Commission or Board to be enrolled? A No sir.
Q Did you ever appear before the Dawes Commission or the Commission to the Five Civilized Tribes and attempt to make application for enrollment as a citizen by blood of the Choctaw Nation?
A Yes sir.
Q When did you make that appearance? A Right here at this place.
Q At what building in this place? A Right up there in that hall (indicating Masonic Hall).
Q The first place was a tent, was it not? A Yes sir.
Q The first time you attempted to make application, where was the tent? A Right up there (indicating Masonic Hall).
Q Far from the Masonic Hall? A Just a little piece.
Q Above there? A Between it and this building down here (indicating railroad station).

- Q Who was with you? A My husband, and Bob Blassingame--
Q Where does he live now? A Right out here -- next door.
Q Who else? A Rile McElvane.
Q Were they in the tent with you? A They were in the tent close by.
Q Was there any one else you remember? A No sir.
Q What did you say to the Party? A I just came to them to enroll; they were enrolling the Choctaws. A man told me they didn't have no use for me.
Q What kind of looking man was that? A Fair skinned; it was Archie McKennon.
Q Did you know him? A I am not acquainted with him.
Q You are positive it was Mr. McKennon? A Yes sir.
Q What did you state to him? A I didn't state anything much, because he didn't give me time to.
Q Did you say anything to him? A He told me to get out of the way and follow them to Hartshorne and get my proofs.
Q About how many years ago was that? A About six years ago.
Q Do you remember the season of the year? A Apring.
Q Have you any idea about the month? A No sir; we never took nothing down.
Q You know about when January was? A I reckon somewhere about that.
Q Do you think it could have been February? A No, it wasn't February.
Q January, then? A I don't know, I guess it was.
Q Who is this Bob Blassingame?---Is he a whiteman?
A Yes sir, he is a white man.
Q Is he an intermarried citizen? A Well, they claim a right.
Q Who is Rile McElvane? A A Choctaw by blood.
Q Where does he live? Right up here, near Wister.
Q When was the next time you attempted to make application?
A I don't know when it was.
Q How long after your first attempt? A I don't know that.
Q As much as a year? A I reckon it was.
Q Two years? A I don't think it was two years.
Q Where was that made? A Right up there at the Masonic Hall.
Q Who did you see that time? A Both them men that I just now told you---Bob Blassingame and Rile McElvane.
Q How did it happen that they were there? A Just standing around.
Q Did they have business with the Commission.
A I don't know, I never looked to see.
Q What impressed upon your mind their presence on both occasions?
A Of course, there was lots of them standing around listening.
Q How does it happen that you only remember these two?
A There was several, but I don't recollect of any but them two. Mr. Sprinkles was there, too.
Q This gentleman here? A Yes sir.
Q At the time you appeared before the Commissioner, did you mention Mr. Sprinkle's name as being present with you?
A No sir.
Q Why did you not? A He was not there both times.

- Q Do you remember the names of any one else? A No sir.
- Q Do you know the names of any citizens by blood who were present? A No sir; I don't.
- Q Are any of these parties citizens by blood of the Choctaw Nation? A Rile McElvane.
- Q Is he here? A I reckon he is.
- Q Have you ever talked with him and asked him to testify in your behalf? A Yes sir.
- Q What did he say? A He said he would be right here and would help me out.
- Q Have you been notified of the appointment here? A Yes sir.
- Q Did you speak to him and ask him to be here? A Yes sir.
- Q What did he say? A Said he would be here.
- Q At the time of your first appearance before the Commission, which you think was about 1900, where were these parties standing in relation to yourself?
- A They were at the entrance to the tent.
- Q On the inside or outside? A Inside.
- Q Close to you? A Not far from me.
- Q Could they hear distinctly what you said? A I guess they could.
- Q Were these parties in the hall at the time you attempted to apply the second time? A Yes sir.
- Q Who did you speak to on the second time you appeared?
- A Simon Lewis.
- Q Did you speak to him both times? A Yes sir.
- Q Did you speak to any body else besides Simon Lewis?
- A No sir, I did not.
- Q What did you state to Lewis?
- A I told you awhile ago what I told him. I told him I come to make enrollment. He told me to get back and make room, I had no proofs.
- Q Did Simon Lewistell you that? Yes sir.
- Q What did you do? A I got back and turned around and went out.
- Q Are these two times the only times you attempted to make application for enrollment? A Yes sir.
- Q You have not done anything since that time until the present to secure your enrollment? A No sir.

BY MR. LONDON:

- Q How far did you live from Hartsborne in 1893 when you went over there to draw your Leased District Money?
- A Twelve miles.
- Q Where did Mrs. Hampton live? A Across the mountain.
- Q After you made that appearance and asked for this money, did anybody ever send any papers to you to be signed?
- A No sir.

Q You didn't give Hampton a power of attorney? A No sir, I didn't.
Q Did he ask you for a power of attorney? A No sir, he didn't.
Q You stated the reason you did not follow them to Wilburton,
or to the next place---what was the matter with you?
A I was confined.
Q You never drew this money? A No sir.
Q Did you ever get any letters from any body about that money?
A No sir.
Q What degree of Choctaw blood are you? A One-half.
Q Was your father a full-blood? A Yes sir.
Q What was your mother? She was a white woman. I was always
taught she was a white woman.

BY THE COMMISSIONER:

Q Were they married? A Yes sir, I reckon; of course, I don't
know.

BY MR. LONDON:

Q You say you don't remember where you lived in 1896---10 years
ago?
A No sir.
Q Did you ever hear that it was necessary for you to go before
the Commission to the Five Civilized Tribes and be en-
rolled in order to draw your land?
A No sir.
Q How long ago did you know that? A About six years ago.
Q You did not know that ten years ago? A No sir.
Q Do you remember who first told you? A No sir.
Q Your first attempt to enroll was when you came here and they
were in a tent? A Yes sir.
Q When you came here and the Dawes Commission were in the tent,
and you went in and made your application, who did you
speak to? --- McKennoh, or Lewis?
A I don't recollect.
Q Lewis told you to get back? A Yes sir.
Q What else did he say? A Nothing.
Q You didn't make any further effort at that time?
A No sir.
Q Did you employ attorneys to look after your interests after
he refused you? A Yes sir.
Q You depended upon your attorneys to look after your enroll-
ment? A Yes sir.
Q You made no further effort until you attempted to get before
that Party here in the hall? A No sir.

BY THE COMMISSIONER:

- Q Who were your attorneys? A Neal & London.
 Q After the first time you appeared? A Yes sir.
 Q The second time you attempted to apply, did you speak to
 any one besides Simon E. Lewis? A No sir.
 Q Did you speak to any one else besides Simon E. Lewis the
 first time? A Yes, Archie McKennon.
 Q Did you address him in words? A No sir.
 Q Did not tell him anything? A Yes sir.
 Q How old were you when you married the first time? A Fifteen.
 Q After you married John Smith what happened, and how long did
 you live with him? A He died.
 Q How long after that did you remain single? A About two years.
 Q Then who did you marry? A Mr. Choate.
 Q You have lived with him ever since? A Yes sir.

Ed Choate, first being duly sworn testified as follows:

BY THE COMMISSIONER:

- Q How old are you? A Sixty three.
 Q What is your postoffice address? A Whiter, Indian Territory.
 Q How long have you lived in the Choctaw Nation?
 A Since 1876, I believe.
 Q You are a white man? A Yes sir.
 Q Do you claim any right to citizenship by intermarriage?
 A Only by marriage through my wife Eliza Choate.
 Q How long have you been married to Eliza Choate?
 A Six or seven years.
 Q How long have you known her?
 A About a couple of years before we were married.
 Q Did you become acquainted with her about 1897 or 1898?
 A Yes sir.
 Q Where were you living at that time? A At Wilburton.
 Q She was living there also? A Yes sir.
 Q You were married to her subsequent to 1896?
 A I don't remember the date; we have our certificate on file.
 Q About what time were you married; don't you know the year?
 A No sir, I don't remember.
 Q Who married you? A Fellow by the name of Wealdredge, a
 Texas minister; his brother is a citizen, Ed. Wealdredge.
 They lived here at that time, and they were enrolled,
 and afterwards they went out in the Chickasaw Nation.
 Q Did you get out a United States license to marry? A Yes sir.
 Q Where did you get that license?
 A From the Court when it was at Cameron.
 Q You have been married six or seven years? Yes sir.

- Q You became acquainted with her a couple of years before that?
A Yes Sir.
- Q Do you know anything about an attempt having been made by your wife for enrollment as a citizen by blood of the Choctaw Nation? A Yes sir, I was with her.
- Q When was the first attempt made?
A I never charged my memory, it was when the Dawes Commission set here.
- Q How long was that after you were married? A A couple of years, or a year and a half.
- Q Where were you living at that time?
A Right here where I am now, in a mile and a half of this place.
- Q What time of the year was it? A In the spring.
- Q What month? A-I don't remember what month.
- Q Do you read or write? A Yes sir, both, but I never took any minutes of it.
- Q You can read, write and figure---a man of average intelligence?
A Yes sir, I suppose so, I do a right smart little business.
- Q You have done a right smart of business?
A Yes sir, for my own business.
- Q You have a common school education?
A Yes sir, a common country school education, for my day and time.
- Q Where was the Commission located at the time your wife attempted to make application?
A The tent was set just a little west from the Hall on the south side of the railroad.
- Q Did you go in there with her?
A They had a guard rope right around the door. It was warm enough to have the walls of the tent rolled up, and they had a guard at the door to the Commissioner, and they never seated us at all. I went in the tent with her. I had known Mr. McKennon, and had voted for him when he was up for Attorney General in Arkansas, and I thought he would recognize me still. It seemed he had forgotten me, and I did not force myself on the Colonel.
- Q Did you know Mr. Needles at sight? A No sir, I just knew Mr. McKennon.
- Q Did you ever see Colonel Needles? A No sir, not to know him. I didn't know but one of the Commissioners, and that was Doctor Lewis, I believe they called him.
- Q What kind of a man was this that you speak of with Mr. McKennon?
A We were in there such a short time--he was sitting to my left as we walked in, and it seemed that McKennon was doing the business that day. They asked us a few questions and then turned us out.
- Q What questions? A My wife was refused enrollment, and they asked me did I want to enroll.
- Q What question did your wife address to Mr. McKennon?
A They asked her what she would have, and she told them she came to enroll, there was a few words past---
- Q Do you recall the conversation? A No sir, I don't. I think it was Mr. Needles says can you meet us at Harts-horne, and I remarked I don't know; it isn't convenient

- for us to go everywhere; we are not monied folks.
He says you can meet us at Hartshorne, and told me the day. I didn't tell him whether we would or not.
- Q That was the only time you ever knew your wife to make application? A No sir.
- Q At what other time? A When they paid off here in the Hall.
- Q During the time they were paying off, you came here?
- A Yes sir.
- Q The Dawes Commission was with them at that time? A Yes sir.
- Q Were they paying money that day? A Checks.
- Q Did she appear before them? A Yes sir. Mr. London was there in the house, and he got an opening for her himself.
- Q At the second time, when you attempted to appear at the Hall, were they making cash payments or giving checks?
- A No, I never came down here. I staid at home with the children and my wife came down here. I was here by myself and she was here by herself.
- Q You don't know anything about the second appearance? A Yes.
- Q If you were not here, how do you know anything about it?
- A They staid here several days.
- Q Were you with her at another time besides the first time you testified about? A Yes sir.
- Q When was it? A I don't know what date it was. It was in the winter time, and they were working in the Hall. They had a fire in the Hall, and there was a big crowd in there all the time.
- Q You are positive it was the Commission?
- A Yes sir, I think I ante the best of my recollection. I know I come with her once, and come by myself once, because I wanted to get a little information on the enrolling business myself, because I had forethought enough to get Mr. McKennon to make a minute of this. I was not posted in Government affairs, and thought there would be a second calling, to give all classes a chance to come in. I know that I was here, or really think I was.
- Q What calls to your mind the fact that you were here on another occasion besides the first time.
- A Because, I wanted to get information. I wanted to see the Commission and have a conversation and get them to tell me how to proceed.
- Q You just stated that you appeared here something like a year or so after the first time?
- A The second setting I think we both came together.
- Q At that time were they making payments in the Hall?
- A I reckon I am too fast about that: This last payment of \$40 was just last year.
- Q Get it straight in your mind---When was the second time that your wife appeared?
- A I don't know how long it was between times, at the first time we made application and the second. I don't know how long it was between the settings of the Commission.
- Q You know it was a long in the year? A Yes sir. I didn't take any minutes of it.
- Q How many years ago?---1898 or 1899?
- A I would not be positive.

- Q When do you think it was? A The latter part of 1898 or 1899.
Q When did your wife appear the first time?
A I don't know what difference there was between the times.
Q Your best judgment? A It was at the first setting of the Dawes Commission; I don't know whether it was 1896 or 1897.
Q You testified you had been married six years, that would bring it down to 1900, if that is the case how could your appearance with your wife be 1898?
A That's so; I am mistaken about the dates.

BY MR. LONDON:

- Q Can you refresh your memory and tell when you was married?
A No sir; I think it was in the winter months.

BY THE COMMISSIONER:

- Q You are positive that you accompanied your wife on two occasions before the Dawes Commission and attempted to make application for enrollment? A Yes sir.
Q Be the date what it may, as to the last appearance, to whom did you make that application?
A I didn't inquire what the Commissioner's name was. I didn't know who he was.
Q What kind of looking man was he? A Kind of middle age man, 40 or 45 years, round face, smooth shaven.
Q Did he wear glasses? A I don't remember.
Q About how large was he? A He was a heavier set man than I am, and not as heavy set as Mr. London. He met my wife when she got room through.
Q Has anything ever been done since that time to secure your wife's enrollment?
A Nothing only through our attorneys.
When was that? A Right away after that we employed attorneys, and they have been at work for us ever since. I could not do the work myself, and our work has been done for us. I knew I couldn't do anything.

BY MR. LONDON:

- Q You say you knew your wife about two years before you married her? A Yes sir.
Q Was she recognized as an Indian? Yes sir.
Q Did she live with Indians? Yes sir; she was living in town then.
Q Did you ever know her when she lived with an Indian family?
A No sir.
Q You was with her when she made application in the tent to Col. McKennan? A Yes sir.
Q What did he say? A Talked about her enrollment.
Q Did any body else say anything but him? A S. H. Lewis.
Q What did he say? A Objected.

- Q Col. McKennon, what did he say?
- A He says "if you are rejected, then we have nothing more to do with it". It was the 4th day of the setting and there was considerable of a crowd, and we walked out then. I didn't say anything.
- Q About how long after that, to the best of your recollection, before you were here with her again?
- A I don't know the date.
- Q One year or two years? A A year and a half, I suppose.
- Q Did she go to any body that time? A The Commissioner that was here.
- Q What did she say, do you remember?
- A He ran over the books, and said she was not on the 1893 roll. Mr. Lewis seems to have had it in for me, because I didn't have to buy my wife.
- Q The rule was that you bought the license?
- A Yes, I bought the license. I spent my money with my own people, and I said according to Judge Clayton's opinion, I would be a Government man.

BY THE COMMISSIONER:

- Q What did you say about the 1893 roll---Do you know anything about that? A Yes.
- Q You stated you did not know any of your wife's people?
- A No sir; I knew the names of some of them, but I am not personally acquainted with them.--- I am with some of the Pulsoms.
- Q Did you know your wife's father or mother? A No sir.
- Q Did you know your wife in 1893? A No sir.
- Q Did you know her in 1896? A Yes sir.

T. V. Sprinkles, first being duly sworn testified as follows:

BY THE COMMISSIONER:

- Q How old are you? A 41.
- Q What is your postoffice? A Wister, Indian Territory.
- Q Are you acquainted with Elisa Choate? A Yes sir.
- Q How long have you known her? A Since 1898, I think the first part of 1898.
- Q In what way was your attention first called to her?
- A She was an applicant here to be enrolled when the Dawes Commission was here, and I lived here. I came here in January 1898. I disremember whether it was 1897 or 1898, that this thing occurred. She came here to be enrolled. They had the tent stretched upon the hill there. And Mr. London and Mr. Neal was representing them at the time before the Commission, and I had been out to their house

several times for those gentlemen; the fact is I was representing them to some extent.

We went before the Dawes Commission here, and Archie McKennon told Mrs. Choate to get back and give room to some body else, that he had no room for her there. There had been some Commissioner making some talk; I couldn't understand what was said, but McKennon told her to get back and give room.

- Q Were you in the tent? A Yes sir; I heard the remark.
- Q How far was Mrs. Choate from you? A I don't remember how far.
- Q What did she say? A I didn't hear what she said, but she made her application for enrollment.
- Q How do you know, if you did not hear her?
- A Her attorney was with her.
- Q That was in 1898?
- A I can't say; I had no occasion to keep that in mind. I moved here in 1898.
- Q What is it that recalls this particular instance to your mind?
- A The fact that I went three or four trips down to Mr. Choate's house to help investigate the matter.
- Q How did you know these people were Indians?
- A Old man Fulson told me they were.
- Q In what capacity were you before the Commission?
- A I was a law student here at that time in Fredericks & London's office.
- Q You were in there as a matter of curiosity?
- A No, I was personally acquainted with Archie McKennon, and there was no objection to my being there.
- Q Were you an applicant? A No sir.
- Q How did you happen to be there? A I lived here.
- Q You just happened to be there at that particular time?
- A Yes sir, at several other times.
- Q You didn't hear any question addressed to Mr. McKennon by Mrs. Choate?
- A I heard her tell him that she was here to be enrolled.
- Q Did she say as what?
- A She said she was here to be enrolled as a Choctaw citizen.
- Q You overheard that? A Yes sir.
- Q Who was with Col. McKennon at that time?
- A I didn't know all of them: Simon Lewis, the Choctaw Commissioner, Jerry Fulson, and old Uncle Dick Perry. I didn't know many of the members of the Commission. I knew the names of McKennon and Lewis.
- Q Did Col. McKennon make any note of the fact that Mrs. Choate appeared? A Not that I saw of. Lewis first got up and made a talk.
- Q Did you hear what he said?
- A No sir, he said get back and give room for some body else.
- Q What did Mr. McKennon say to Mrs. Choate?
- A I can't tell you, except to refuse to hear her application.
- Q Upon receipt of this reply, what did Mrs. Choate do?
- A Walked out.
- Q Did you stay in there after that?
- A I don't remember about that.

- Q Do you know the names of any other applicants who appeared before Mr. McKennon that you heard that day?
- A Judge Humphreys had some applicants down that day.
- Q Do you remember their names?
- A I don't remember their names, but he had some that day.
- Q Do you know whether or not Mrs. Choate has attempted at any other time than the one testified to by you to make application?
- A Personally, I do not. I went over in the Creek Nation in 1900.
- Q The attempt testified to by you is the only time that you know about personally? A Yes sir.

Robert T. Blassingame, first being duly sworn testified as follows:

BY THE COMMISSIONER:

- Q How old are you? A 35.
- Q What is your postoffice address? A Wister, Indian Territory.
- Q How long have you lived near Wister? A 17 years.
- Q Right here in town?
- A No sir; I live about a mile and a half north of here.
- Q Are you acquainted with Mrs. Choate? A Yes sir.
- Q How long have you known her?
- A About ten years; I would not be positive.
- Q Has she been Mrs. Choate ever since you knew her? A No sir.
- Q Who was she at the time you first became acquainted with her?
- A Mrs. Smith.
- Q Where was she living at that time?
- A The first time, she was living here.
- Q Was that ten years ago?
- A I am not positive; I don't guess it has been that long. It was when she first lived here.
- Q With whom was she living at that time?
- A Just with her children.
- Q Do you think it was as much as ten years ago?
- A Eight or ten, I wouldn't say.
- Q Do you know anything about Mrs. Choate having attempted to make application before the Dawes Commission? A Yes.
- Q When? A I believe it was in 1898, when the Dawes Commission first held here.
- Q Where were they located at that time?
- A They met us here in the City.
- Q In the Hall? A No sir; in a tent.
- Q Were you present on the time Mrs. Choate applied? A Yes sir.
- Q Were you in the tent at that time? A Yes sir.
- Q Did you hear the conversation that took place between Mrs. Choate and the Commission?
- A I did; but I don't remember the conversation exactly; all I remember is they made application and were rejected. I don't remember the words.
- Q Do you remember what Mrs. Choate said?
- A No sir, I do not, only she was there for the purpose of enrolling.

- Q How did you know she was there for that purpose?
A From the fact she made application for enrollment.
Q How did you know she made application?
A Because, I was present.
Q What did she say? A I don't remember the words she used.
Q What is the substance of it?
A I remember I was present and it was gone into in detail, and she was trying to appear. It has been so long ago, and I haven't thought of it. She was trying to substantiate the fact that she had been on the rolls, and that she was now on the dead roll, but Mr. Jerry Fulson and also Simon Lewis was there and questioned her, and they turned to the rolls and could not find it as she claimed it was.
- Q Did they take some books and look through to see if they could find her name? A Yes sir.
- Q Did Mr. McKennon say anything to her? A Yes; the conversation was all between McKennon, Fulson and Simon E. Lewis.
- Q Did McKennon say anything to Mrs. Cheate?
A Yes, I knew they all had questioned her, but Mr. McKennon refused to receive her application.
- Q Did you hear him make a statement to that effect? A Yes.
- Q How came you there?
A I was one of the misfortunate court claimants. We were waiting to get before the Commission, and that was how I came to be there.
- Q Did you make application that day?
A I don't remember whether we got before the Commissioner that time or not.
- Q Did you go before the Commission while they were here at that time? A Yes sir.
- Q Do you remember the names of any other applicants who appeared the same date? A No sir.
- Q How long were you in the tent?
A I was there two or three days, and a part of the time I was in the tent or as near as I could get.
- Q You do not recall the names of any others who made application during that time?
A I remember a number of them made application; I don't remember whether the other applications were on the same date or not. I would not say whether they were at the same time or not.
- Q What calls this case to your mind in particular?
A Nothing.
- Q Give me the names of some of the others who applied at that time?
A Mr. London, for one, applied at that time; Jas. F. Biddie applied, also Nat Brown was here and applied. They were here, a number of days.
- Q Do you know anything about any attempt at any other time to make application for Mrs. Cheate? A No.

BY THE COMMISSIONER:

Addressed to Mr. London:

- Q Have you any other witnesses you desire to introduce in reference to the matter of the alleged application for the enrollment of Mrs. Choate as a citizen by blood of the Choctaw Nation?

MR. LONDON:

- A I have no witnesses present that I want to introduce to show the fact of her having made application.
-

Simeon T. Wright, as stenographer to the Commissioner to the Five Civilized Tribes, upon oath states that he reported the proceedings had in the above entitled cause on the 28th day of March, 1906, and that the foregoing transcript is a complete translation of his stenographic notes taken on said date.

Simeon T. Wright

Subscribed and sworn to before me this April 2, 1906.

J. McDermott
Notary Public.

Mem.-144.
O.L.J.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of
Eliza Choate as a citizen by blood of the Choctaw Nation.

D E C I S I O N .

The Department under date of April 14, 1905 (I.T.D. 3704-1905), transmitted to the Commission to the Five Civilized Tribes, for report and recommendation, a communication of Messrs. Neal & London, of Fort Smith, Arkansas, dated March 31, 1905, relative to the attempt of Mrs. Choate of Wister, Indian Territory, to make application for enrollment as a citizen of the Choctaw Nation.

The Commission to the Five Civilized Tribes on May 12, 1905, returned the letter to the Department with a report thereon, and recommended that Messrs. Neal and London be advised that if they would furnish the christian name of Mrs. Choate, the names of her parents, the county of the Choctaw Nation to which she and her parents belonged, where she resided when she drew the 1893 leased district payment, and under what name same was drawn, where she lived when the 1896 Choctaw census roll was prepared, and any other information which would aid in identifying Mrs. Choate upon the records of this office, the matter of their inquiry would receive further consideration.

The Department on September 7, 1905 (I.T.D. 3704, 6868, 7864-1905), transmitted to the Commissioner for report and recommendation, a petition of Eliza Choate relative to her right to enrollment as a citizen by blood of the Choctaw Nation.

The Commissioner on September 27, 1905, returned the petition to the Department, and reported that a careful and thorough examination had been made of the 1885 census roll, the 1893 leased district payment roll, and the 1896 census roll of the citizens of the Choctaw Nation, and that the petitioner could not be identified on any of said rolls under the name of Eliza Page, Eliza Hanatubee, Eliza Smith or Eliza Choate, and recommended that if she was ever at any time recognized and enrolled by the tribal authorities of the Choctaw Nation as a citizen thereof, or attempted to make application for enrollment to the Commission to the Five Civilized Tribes, she and her attorneys, Neal and London, be advised that it would be necessary for her to personally appear before the Commissioner at his office at Muskogee, Indian Territory, and present the testimony of reliable citizens of the Choctaw Nation, who had actual knowledge of her tribal recognition and enrollment and the fact that application was attempted to be made by her as alleged in the petition.

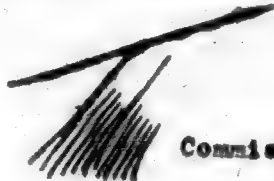
The Department on January 27, 1906 (I.T.D. 7864, 16462-1906), returned to this office the letter of Messrs. Neal & London and the petition of Eliza Choate, and directed that she be afforded an opportunity to be heard at the most convenient place to be fixed,

relative to certain alleged attempts to be enrolled by the Commission to the Five Civilized Tribes as a citizen by blood of the Choctaw Nation, and as to her alleged tribal recognition as a Choctaw citizen.

In conformity with the Department's instructions, this office, on March 8, 1906, notified Eliza Choate at Wister, Indian Territory, Neal & London, Fort Smith, Arkansas, and Mansfield, McMurray & Cornish, attorneys for the Choctaw and Chickasaw Nations, South McAlester, Indian Territory, by registered mail, that the Commissioner to the Five Civilized Tribes would, at the United States post-office at Wister, Indian Territory, on Wednesday, March 28, 1906, at ten o'clock A. M., hear such testimony as might be submitted in reference to the alleged application of Eliza Choate to be enrolled as a citizen by blood of the Choctaw Nation, and as to her alleged tribal recognition as a Choctaw citizen.

In conformity with said notices, proceedings were had before the Commissioner at Wister, Indian Territory, on March 28, 1906, the petitioner being represented by John London, her attorney. No appearance was entered on behalf of the Choctaw and Chickasaw Nations.

I am of the opinion that the petition filed by the applicant, Eliza Choate, with the Department on June 23, 1905, constitutes a sufficient application for her enrollment as a citizen by blood of the Choctaw Nation, made within the time limited by the provisions of the Act of Congress approved April 26, 1906 (Public No. 129), and that the same should now be determined upon its merits, and it is so ordered.



Commissioner.

Muskogee, Indian Territory,

JUL 1 1906

Muskogee, Indian Territory, July 17, 1906.

Elisa Cheate,

Wister, Indian Territory,

COPY

Dear Madam:

On July 16, 1906, the Commissioner to the Five Civilized Tribes entered an order holding that application was made for your enrollment as a citizen by blood of the Choctaw Nation, within the time provided by the Act of Congress approved April 26, 1906, and the application for your enrollment will now be determined on its merits.

You are hereby advised that the Commissioner to the Five Civilized Tribes will, at his office in Muskogee, Indian Territory, on Friday July 27, 1906, at nine o'clock A. M., hear the testimony of such witnesses as you may desire to present in support of your application for enrollment as a citizen by blood of the Choctaw Nation.

Respectfully,

SIGNED

Tamm Kirby
Commissioner.

7-6011

Muskogee, Indian Territory, July 17, 1906.

Neal & Londen,
Attorneys at Law,
Poteau, Indian Territory,
Gentlemen:

On July 16, 1906, the Commissioner to the Five Civilized Tribes entered an order holding that application was made for the enrollment of Eliza Choate as a citizen by blood of the Choctaw Nation within the time provided by the Act of Congress approved April 26, 1906, and the application for her enrollment will now be determined on its merits.

You are hereby advised that the Commissioner to the Five Civilized Tribes will at his office in Muskogee, Indian Territory, at nine o'clock on Friday, July 27, 1906, hear the testimony of such witnesses as she may desire to present in support of her application for enrollment as a citizen by blood of the Choctaw Nation.

Respectfully,

SIGNED

Tamm Dixby
Commissioner.

7-6011

Muskogee, Indian Territory, July 17, 1906.

COPY.

Mansfield, McMurray & Cornish,

Attorneys for Choctaw and Chickasaw Nations,

South McAlester, Indian Territory,

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Respectfully,

Commissioner.

DEPARTMENT OF THE INTERIOR
COMMISSIONER TO THE FIVE CIVILIZED TRIBES
MUSKOGEE, INDIAN TERRITORY,
JULY 27, 1906.

IN THE MATTER OF THE APPLICATION FOR THE ENROLMENT OF
ELIZA CHOATE, AS A CITIZEN BY BLOOD OF THE CHOCTAW NATION.

APPEARANCES: ✓ Tom W. Neal of Neal & Londen, attorneys at law,
Fort Smith, Arkansas, appears on behalf of the appli-
cant.

No appearance on behalf of the Choctaw and
Chickasaw Nations.

ELIZA CHOATE, being duly sworn testified as follows:

BY MR. NEAL:

- Q Your name is Eliza Choate, is it? A Yes sir.
Q What was your husband's name? A Ed Choate.
Q Is he your first or second husband? A Second.
Q What was your first husband's name? A John Smith.
Q Mrs. Choate, what was your maiden name? A Page.
Q Page? A Yes.
Q Eliza Page? A Yes.
Q How old were you, about, if you remember, when you married
John Smith? A About fifteen.
Q About fifteen? A Yes.
Q Did you have any children by that marriage? A Yes, one.
Q Girl or boy? A Girl.

THE COMMISSIONER: That is immaterial. This examination
is confined to the applicant herself.

MR. NEAL: All I want to prove by her is the proof rela-
tive to her children.

THE COMMISSIONER: No proof is necessary for the children
in this case.

MR. NEAL: Get in the record that we offer to prove by applicant the ages and blood of her children.

BY MR. NEAL:

Q For how long have you lived in the Choctaw Nation?
A Been here about fourteen years.
Q Before that time how long had you been here?
A I can't tell you.
Q Were you here when you were a little girl?
A Yes, I was born here.
Q Your folk's name was Page? A Yes.
Q What was your mother's given name? A Sallie Fulson.
Q And she married Sam Page? A Yes sir.
Q Was your father a full-blood? A Yes, full-blood.
Q Full-blood Choctaw? A Yes sir.

THE COMMISSIONER: Don't ask so leading.

BY MR. NEAL:

Q What was the blood of your mother?
A I don't know where she had any blood or not.
Q What was she white or Indian? A She was white.
Q Your mother was a white woman? A Yes sir.
Q That would make you a half-blood Indian? A Yes sir.
Q Have you ever been recognized as an Indian by the tribe?
A Yes, all the time.
Q How old were you when your father and mother died?
A About two years old.
Q Who were you raised by? A No Tubby.
Q Were they Indians or white people?
A Yes, they was Indians.
Q What part of the Choctaw Nation did you live in when you lived with them? A I can't tell you.
Q With reference to where you live now? I don't mean what postoffice you have--which direction from where you live now, if you know?
A About Sans Bois, somewhere.
Q Did you ever draw any money at tribal payments?
A No, never did draw none.
Q Did you ever appear before any tribal commission to have yourself enrolled? A Yes.
Q When was it that you appeared, Mrs. Cheate, if you ever appeared for enrollment?
A Why, down here at Wister.
Q That was the Dawes Commission then? Was you ever enrolled at any time before that time? A Hartshepke.
Q What was your name at this time? A Eliza Smith.
Q Was you ever called anything else except Eliza?
A They called me Lizzie for short.

- Q Do you know what name you was enrolled under?
A I was enrolled under Smith.
Q Eliza Smith? A Yes.
Q Do you know whether you was enrolled as Eliza Smith or Lizzie Smith? A No.
Q Who enrolled you? A Simson Hampton.
Q Was you present? A Yes, I was present.
Q He give your name into the Choctaw people, did he? A Yes.
Q (To the Commissioner) Have you got these Gaines County rolls?

THE COMMISSIONER: Yes sir.

BY MR. NEAL:

- Q How many children have you got? A Four.
Q The only further question I have to ask is the information relative to the birth of these children.

BY THE COMMISSIONER:

- Q What is your age at this time? A Thirty-six.
Q Where were you born? A Close to McAlester.
Q When did your mother die?
A She died when I was two years old.
Q When did your father die? A I don't recollect ever seeing my father.
Q After your mother died, where did you go to?
A Moved to Arkansas when mother died.
Q What place in Arkansas? A Clarksville.
Q After your mother died, how long did you stay there?
A Short time.
Q How many years? A About two, I guess.
Q Then what became of you? A I have just been travelling around, from there back to the Nation.
Q What place in the Nation?
A I don't know, we run an old saw mill.
Q Whereabouts was it located? A I don't know whereabouts it was.
Q Who were you with at this time--who were you making your home with? A I don't know.
Q Where is the first place in the Choctaw Nation that you lived that you remember? A I don't remember.
Q I will ask you what is the first place in the Choctaw Nation that you lived, if you remember---Where were you living when you married Smith?
A I was living in the States.
Q What state? A Arkansas.
Q How long had you lived there then?
A Been there a good while.
Q Five years? A Yes sir, I guess.
Q Was it more than that---Was it as much as eight years?
A Oh, it was about five years.
Q After you married Smith, how long did you continue to remain in Arkansas? A About six months.

Q How old were you when you married Smith? A Fifteen.
Q Where did you go to after you left Arkansas, when you married Smith? A To the Nation.
Q What place in the Nation? A Close to McAlester.
Q How far from McAlester? A I don't know how far it was.
Q What was the nearest postoffice?
A I don't know what the nearest postoffice was.
Q What county were you in? A I don't know that either.
Q How long did you stay at this place?
A Never stayed there long.
Q How long did you stay at this place?
A I don't know exactly how long I stayed there.
Q Did you stay there a year?
A No, never stayed no year.
Q Stayed six months?
A Might have stayed six months, and might have stayed three years.
Q Where did you go from there?
A Went on the road moving around.
Q Did you stop at any place at that time?
A No, our wagon was our house.
Q Didn't your husband stop at any place to work?
A Might, a short time.
Q Where is the first place, after you started to move that you and your husband stayed any length of time?
A Hartshorne is the first place that we stayed any length of time.
Q What year was it you got there to Hartshorne?
A I don't know.
Q How old were you when you were living there at Hartshorne?
A Well, I don't know.
Q About how many years ago was it you lived at Hartshorne?
A About eight years ago.
Q About eight years ago? A Yes.
Q What was your husband doing there at Hartshorne? A Logging.
Q Did you have any acquaintances around that place?
A Yes, a few not many. Mrs. Hampton and Mrs. Carpenter, it was them. Married a fellow, I don't know who she married.
Q Were they Indians? A Yes.
Q Do you speak the Choctaw language?
A No sir, I can't speak it.
Q What county is Hartshorne in? A Gaines county.
Q You were living with Smith at that time, were you?
A Yes sir.
Q What is his first name? A John Smith.
Q He was a white man? A Yes.
Q What became of John Smith? A He is dead.
Q When did he die? A He died about seven years ago.
Q Where were you living when he died? A Living at Wilburton.
Q You had moved from Hartshorne over to Wilburton? A Yes.
Q Is Wilburton in Gaines county, also? A No sir.
Q What county is that? A I don't know what county.
Q After your husband died there what did you do?
A I stayed there at Wilburton awhile.
Q How soon after Smith died, did you marry again?
A About a year.

Q You married your present husband, Choate? A Yes.
Q Was he living near Wilburton at that time? A Yes sir.
Q When was it you claimed Hampton registered you?
A When they drew that money up there.
Q What money was that?
A I don't know, but they was enrolling and drawing money..
Q You say that was about eight years ago?
A No, that wasn't eight years ago.
Q I asked you awhile ago, and you stated you were living at
Hartshorne, and that was about eight years ago?
How long ago was it since Hampton attempted to enroll
you?
A Been about twelve years I reckon, best I can recollect.
Q Where did you go to be enrolled at this time? A Hartshorne.
Q What place in Hartshorne? A I don't know. There was a big
building there, I don't know what building it was.
Q In a store building? A Yes, in a store building.
Q Who was it that you went there with?
A Mrs. Hampton and Mrs. Carpenter.
Q Who did you see after you got there? A That is about all
I know. I seen lots of them. That is all I had any
correspondence with, just them two.
Q Just those two women? Didn't see any men there?
A Oh, yes there was plenty of them there.
Q Didn't talk with any of the men? A Only Simeon Hampton.
Q What did you ask him to do? A We talked about our enrolling.
Q Was he giving them money there then?
A No sir, just enrolling them.
Q Why didn't you draw that money?
A I wasn't able to go to draw mine. I asked---
Q Is Simeon Hampton living now? A No, he is dead.
Q When did he die? A I don't know when he died, but he is dead.
Been dead a good while.
Q Was he dead when you married Choate? A Yes.
Q What year was it you married Choate, do you recollect?
A No sir, I don't recollect what year it was.
Q Do you read? A No sir.
Q Write? A No sir. No education at all.
Q Can you count?
A Can count a little, nothing to amount to anything.
Q Do you know what year this is? A No sir, I don't know what
year this is.
Q Know what month this is? A About July I guess.
Q You say that when you were small you were raised by a family
by the name of Ho Tubby? A Yes sir.
Q How old were you when you lived there? A About fifteen.
Q Were they living in Arkansas then? A No sir.
Q You stated you were fifteen when you married and lived in
Arkansas at that time, didn't you? - - Please answer
my question. - -
Q Where did you live when you lived with this Ho Tubby family?
A Now, I have told you all I am going to tell you.

MR. KEAL: You will have to answer the questions.
Answer the question if you can, because it is
necessary to inquire into these things.

A Well, I have answered all I can.

THE COMMISSIONER:

Q Do you remember the time they took the 1896 census roll?

A No sir.

Q You don't remember that, that is ten years ago? - -
You have never heard of it?

A No sir, if I did, I have forgotten all about it.

Q You don't remember whether you attempted to get enrolled on,
the census roll or not?

A No, I never got on.

Q How do you know? A I don't reckon I did, nobody ever
come around.

Q How have you ever lived any where else except along the line
of the Choctaw Railroad from South McAlester east since
you have lived in the Territory?

A No, not that I recollect of.

Q You have lived at South McAlester, Wilburton, Hartshorne
and up as far as Wister along the line of the Choctaw
Railroad? A Yes sir.

Q What was your first husband's first name?

A John Smith was all the name he had.

Q What is the name of your oldest child? A Mary.

Q Girl? A Yes sir.

THE COMMISSIONER: The name of one "Lizzie Smith"
appears upon the 1893 Leased District Pay-
ment roll, Towson County opposite No. 323.

Q Have you a child by the name of Albert Smith? A No sir.

THE COMMISSIONER: Enrolled with said Lizzie Smith is one
child by the name of Albert Smith. The age
of Lizzie Smith is given as 38 years old, and
of Albert six. It further appears from said
record that 1893 Leased District Payment money
was drawn for said parties by one "William
Smith".

MR. NEAL:

Q Can you sign your name? A No sir, I can't.

MR. NEAL: That Lizzie Smith there is evidently another
Smith.

BY THE COMMISSIONER:

Q Are any of the Mc Tubbys living at this time?

A No sir, if they are I don't know of them.

- Q Do you know how long they have been dead? A No sir.
Q When did you last hear of them, how many years ago?
A Been about two or three years since I have heard from them.
Heard he was dead.

BY MR. NEAL:

- Q What was his name, man or woman? A He was a man.

BY THE COMMISSIONER:

- Q Do you recollect his given name, first name? A No sir.
Q It has been a long time since you lived with them?
A Yes, been a good while.
Q Do you recollect the name of his wife? A No, I do not.
Q Any of his children? A No, I don't recollect them.

BY MR. NEAL:

- Q What was your age when you lived with them? How old was you when you lived with them, about? - How big was you, if you don't remember your age? A Wasn't very big.

BY THE COMMISSIONER:

- Q Have you ever gone by the name of Page since you were married to Smith?
A No sir, not since I was married the first time.
Q Are Smith and Choate the only names you have gone by since you were fifteen years old and married Smith? A Yes sir.

BY MR. NEAL:

- Q When did you marry Smith? A Been six years ago.

BY THE COMMISSIONER:

- Q Your husband, Choate, is a white man, isn't he? A Yes sir.

MR. NEAL: I would like for the Commissioner to take a note of the general appearance of the applicant, appearance as resembling an Indian.

THE COMMISSIONER: The applicant has the appearance of possessing some Indian blood.

MR. G. MARBRY, being duly sworn testified as follows:

BY MR. NEAL:

Q What is your name? A G. Marbry.

Q Are you a citizen of the Choctaw Nation?

A Intermarried man they call it.

THE COMMISSIONER:

Q You married a Choctaw freedman? A Yes sir.

BY MR. NEAL:

Q How long have you lived in the Territory? A Forty years.

Q Do you know the applicant here, Eliza Choate? A Yes sir.

Q When did you first know her?

A When I first got acquainted with her it has been nearly twenty years, when we lived there in the lower edge of the settlement near Potom. What is known as Ho Tubby crossing.

Q Who did she live with then? A Ho Tubby.

Q Were they Indians?

A Full-blood Indians. They are all dead now. Lewis died last year.

Q Do you know anything about her father?

A Most I know about her father is the time he got in that trouble.

Q Who was her father, an Indian? A Yes sir.

Q What was his name? A Page.

Q So he got in some trouble?

A Some murder, I think it was.

Q He was tried by the Choctaw Courts? A Yes sir, Choctaw court.

Q For killing some body? A I think he did.

Q Now, do you know what become of him, of your own knowledge?

A No sir.

Q Did you learn at that time? A No, I think though the Indians killed him. That was my understanding. That was twenty-five years ago.

Q You mean executed him? A But then I have learned that they didn't. That he run off and died some where.

Q Now after this you saw this little girl with the Ho Tubbys-- What was those Indians' names you give? A Ho Tubbys.

Q Did you at that time learn who she was? A I asked them.

She might have been ten years old. Lewis Ho Tubby, they moved up close to me, and I asked him wasn't that his little sister, and he says she aint my little sister. She is just an orphan. Her pap is dead and mother is dead, and she give her to father to raise. Her name is Page. I thought they was brothers and sisters up until then.

Q This is the same girl? A Yes sir, that is the same girl.

Q She was always recognized and considered there by the Indians as an Indian?

A Yes sir, I thought she drewed money once from the Indians-- I think she did.

THE COMMISSIONER: Just testify from your own knowledge.

BY MR. NEAL:

- Q You don't know anything about that? As a matter of fact, I don't suppose she did, or we would find her name on the rolls? - - A I always thought she was Indian.
- Q Did you know her husband, John Smith? A No sir.
- Q Do you know her present husband?
- A I know him. I am well acquainted with him.
- Q Did you know when she married Smith? Q Do you know where she lived when she married Smith?
- A No sir, I don't know where she lived.
- Q Did you ever know her father or mother? Ever see her with her father or mother? A No sir, I never have been personally acquainted with him, knew his name.
- Q Just knew him when you saw him? A Yes sir.

BY THE COMMISSIONER:

- Q Did you ever see him? A Yes sir.
- Q Where did you see him, Sam Page?
- A At old man John Page's. I think he was old man John's son.
- Q Where was that? A Down near Cedar, near Poteau. Where the old lady Page lives.

BY MR. NEAL:-----

- Q What was his given name, if you knew his full name?
- A I wouldn't be positive, I think his full given name was David Page. The Choctaws keep one another nicknamed, so you can't keep up with the names. It aint quite so bad now as it used to be years ago.
- Q He was an Indian, was he? A Yes sir, I thought he was enrolled, John Page's son.
- Q Choctaw Indian? A Yes sir.
- Q As a matter of fact he was old Man John's step-child?
- A I thought he was his son. Bob and them told me better.
- Q John Page's wife is still living, is she?
- A Yes sir, mighty feeble though, they told me the other day. She has got two sons living in Poteau.
- Q Which Page was this? A Some called George and some Sam.
- Q Which was his name? A I don't know which was his right name.
- Q He had one other? A Yes sir, he had one other.

THE COMMISSIONER:

- Q You didn't know him very well, did you?
- A I wasn't well acquainted with him.
- Q Ever speak to him? A I expect I have.

Q You don't recollect it?

A I don't recollect it. I taken him to be John Page's son, until Bob, his oldest son, told me he wasn't. No sir, I think they was some blood relation. Bob Page lived at Poteam.

BY MR. NEAL:

Q All lived there together? A Close together, about a mile apart. I think he was born and raised close to the old place. I lived in that county there forty years.

BY THE COMMISSIONER:

Q When did you see Eliza Choate before she came here to-day?

A I aint seen her for quite awhile.

Q How long? A Before she come here yesterday.

Q How long ago? A Been several years.

Q How many years? A I aint seen her since she was a strip of a girl-like.

Q Twenty-years? A I don't think it has been that long.

She is now grown, about thirty-one or two years old.

Q Was she married when you saw her? A I don't think she was.

Q Where was she living at this time? A The last time I seen her she was in the Hotel DeBore, and I aint seen her since. I think Ho Tubbys moved up to this settlement. Lewis, I asked him about where his sister was, that has been about 13 or 14 years ago. I asked him about his little sister, and he told me about it. She was a good sized girl.

Q How do you know this woman is the same girl you saw?

A She says she is the same girl that Ho Tubby raised. That is all I know about it -- Page's girl.

Q She testified that she lived in the State of Arkansas from the time she was about ten years old until she was about fifteen years old, what do you know about that?

A I don't know anything about that.

Q Did you ever see her after she married Smith?

A Not that I know of. If I did, I didn't know her, unless some body told me. I don't remember it.

Q Eliza has also testified that she is thirty-six years old, and was about ten years old when she lived in Arkansas and she lived in Arkansas five years before she was married? A I don't know that. She must have went to Arkansas before she was at Ho Tubbys.

Q That would be about thirteen or fourteen years ago, wouldn't it? A Yes sir, it has been a considerable time. We used to stop and stay at Ho Tubbys and Sha Tubbys, too.

Q Until within the last few days, you haven't seen her for fourteen years, at least? A It may have been that long.

Q Well, what is your best recollection of that.

A It must be something near that age.

Q Do you remember hearing that Sam Page left that country when he got into that trouble? Do you remember what year it was? A No sir, I don't remember what year.

Q Is there no circumstance by which you can fix that date?

A I don't know anything that I can remember. It has been a good while ago, been over twenty years.

- Q Where did you live the first eight years after you came to the Territory? A Poteau bottom and Scullyville.
- Q Eliza also testified that when she came from Arkansas she was about fifteen years old. She lived at South McAlester? That is on west? A Seventy-five or eighty miles.
- Q If she had lived at South McAlester and you were living in the Poteau bottoms, you would not have seen her would you? A No sir.
- Q Have you ever seen this applicant before at all?
- A Not since she was a little girl. I don't know what age. She was considerable of a girl.

(Witness dismissed).

ELIZA CHOATE recalled.

BY THE COMMISSIONER:

- Q Have you any relatives living in the Cheate at this time?
- A I don't know whether I have or not.
- Q You have no knowledge of any of them that are related to you?
- A No sir.
- Q Did you go by the name of Page before you married Smith?
- A Yes sir.
- Q Didn't go by any other name at all? A No sir.

G. MARRBY recalled.

BY MR. NEAL:

- Q Uncle Charley, you say that it has been twelve or fourteen years since you have seen this woman until a few days ago?
- A Yes sir.
- Q Now what is your judgment relative -- are you positive that she is the girl, or is there a doubt about it in your mind? A There is no doubt about it in my mind.
- Q With reference to her personal appearance, her facial showing, is she the same woman, you ought to know?
- A I think she is the same woman.

(Witness dismissed).

NOEL FULSON, being duly sworn testified as follows:

BY MR. NEAL:

- Q What is your name? A Noel Fulson.
Q What is your postoffice address, Noel? A Suiter.

BY THE COMMISSIONER:

- Q How old are you? A Which.
Q How old are you? A Some where about forty-eight, forty-nine or fifty, never have looked after my age.

BY MR. NEAL:

- Q You are a Choctaw by blood? A Yes sir.
Q Are you acquainted with Eliza Choate, Noel? A Yes sir.
Q The applicant here. When did you first know her, how long ago? A Been nearly, something like about thirty-three years.
Q Since you first knew her? A Yes sir.
Q Who was her father, Noel, if you know, what was her father's name? A Her father always go by the name of Page.
Q Did you know her father and mother? A Yes, I knowed them.
Q Was her father an Indian or a white man?
A He was an Indian, a full-blood.
Q What tribe? A Full-blood Choctaw.
Q What was her mother?
A Her mother, I think she was a half-breed.
Q Was she whiter than---A I never did see, or they never did tell me whether she was a white woman or half-breed, but I think she was a half-breed. I knowed her a long time, but I never did find out.
Q What become of the Pages, this woman's father, if you know?
A Yes sir, he got into trouble there, him and a young man, and they tried them, and I think that may be he was convicted or something, and I think they got a new hearing after that and he stayed a little while and he left the country and knocked around awhile, and then they moved away from the neighborhood after he left there. My father was around in that neighborhood and he said that---
Q Not what your father said, just what you know about it yourself. -- After that did you see this girl? A Yes.
Q Who did she live with? A She lived with a man by the name of Hema Tubby, and some of them called him Ton Tubby.
Q Did you know what the Choctaws called her father?
A Yes, they would sometimes call him George Page, and sometimes---
Q What was his Choctaw name? A Choctaw name?
Q Yes? A Page Ho Tubby (Ton Tubby)
Q Was he ever called Sam? A Yes they called him Sam, some of them.

- Q Where did her father live? - - Were you elder than her father or was her father elder than you were?
A He was elder than I am.
Q How long did you know this girl down there at He Tubbys?
A How long after that?
Q Yes? How long did you know the girl?
A It has been about thirty-three years ago.
Q Thirty-three years ago you saw her first time, then how long did you know her? A I seen her there. She lived with them folks until she was about thirteen or fourteen years old.
Q Then did you know where she went? A Well this He Tubby family moved up on Poteau near the state line, and---
Q Near Arkansas, you mean? A Yes, near Arkansas. And after that, she was about grown then, and a good while after that we heard she had married off.
Q You heard she married? A Yes, we heard she married.
Q Have you ever seen her since she was married until a few days ago? A Yes, I saw her after she was married.
Q Well now is this woman here, Mrs. Choate here, is she Sam Page's child? A Yes sir.
Q You are sure of that, are you Noel? A Yes sir.
Q Do you know whether as a child she was recognized and always has been recognized as a Choctaw Indian by the other Indians? A They always recognized her as a Choctaw, the tribe did.

BY THE COMMISSIONER:

- Q Where were you raised Noel? A I was raised at Goldring, about twelve miles this side of Fort Smith.
Q Did you know her father personally? A Yes.
Q How far did he live from you? A Lived about a mile and a half, may be two miles, when he was a young man, before he married.
Q Where did he go to? A When he married he moved upon Poteau river, they call it; it is a creek. There is a ford there they call the Te Nubby ford.
Q How many miles from you? A From where I lived it was about twelve or fifteen miles.
Q After he married he moved up there? A Yes sir.
Q Did you see him often after that? A Yes, I saw him very often.
Q How old were you about that time? A I guess I was about eighteen or nineteen years old, may be twenty at that time. The last time----
Q How old are you now? A Some where about forty-nine or fifty.
Q About fifty years old? A Yes sir.
Q Did Page live upon that place twelve or fifteen miles from your place until he died? A That is where he was living when he died, but I don't know whether he was living on the place when he died. You see they moved away from near Goldring; we moved to Same Bois county.

- Q How far is that from where Sam Page lived? A About twelve miles.
- Q After you moved over to Sans Bois, you didn't see Mr. Page any more, did you? A Yes, I saw him after that. I never saw him when he died. I just heard he had died.
- Q Did you ever see this woman here at his home? A Yes sir.
- Q Before he died? A Yes sir.
- Q Where was he living then? A Living there at that ford, Ho Tubby, about three miles from Petean.
- Q Did Sam Page's wife die before or after he died?
- A Died before he died.
- Q Eliza has testified that her mother died about two years after she was born and that she never did see her father
- A Well she was quite small when her Papa died. About three years old.
- Q Did her mother die after her father died, what do you know about that? A No sir, her father died after her mother died, that is the reason he got these folks to take care of her.
- Q Where were these Ho Tubbys living when Page died?
- A Well he was living down there about that ford, near that ford where Page lived.
- Q Did you ever know that Eliza Choate lived in Arkansas?
- A No sir, I never knowed her to live in Arkansas. I never have seen her living in Arkansas.
- Q Where did you see her before the last few days, how many years ago? A It has been, let me see, I believe it has been about five or six years.
- Q Where was she living then? A Living up there near Cavanaugh
- Q Right above Westar? A Yes sir.
- Q How long since you saw her before that? A I believe it was-- I don't just remember how long it was.
- Q Where did you see her? A Well near, I believe it was Benton's old place, near Howell now.
- Q How long before five years ago, was that? How many times have you seen her since she was a child?
- A I saw her several times, it has been about five or six times.
- Q Did you ever see her husband, John Smith? A No sir, well I have seen John Smith, but then I didn't know he was the man married her.
- Q Did you ever see Eliza Choate while she was married to John Smith? A Yes sir, I saw her once.
- Q Where was that? A I don't just remember now, some where near Hartshorne.
- Q Did you ever live over near Hartshorne? A Who me?
- Q Yes? A No sir, I never did live there, but I traveled around.
- Q What was you doing there? A Paddling sewing machines, and such as that.
- Q Where did you see her at? A In town.
- Q Did you talk with her? A I just spoke to her and I went on.
- Q Did you know it was Eliza Choate? A Yes.
- Q When did you see her before that time?
- A I don't just remember, but then I saw her off and on, I don't remember how far apart it was.

- Q Do you know whether or not Eliza Choate has been placed upon any tribal roll? A No sir, I don't know whether she is on that roll or not. I never did talk with any one, and then all the old people have died off.
- Q You don't know anything about it yourself?
- A About her being on the roll?
- Q Yes? A No sir.
- Q Did you know when she married her husband Smith?
- A Yes I knew that she married, but I didn't know his name was Smith.
- Q When was she married? A When?
- Q Yes? A I can't tell you just exactly when it was.
- Q How did you find out she married Smith? A Well these folks that raised her told me. The old man he is living then. And he died; the last of all the whole family died. None of that family is living now, they are all dead.
- Q Did you ever see Eliza Choate when she lived around South McAlester? A No sir, I never knocked around South McAlester, and I never seed her at South McAlester.
- Q Did you ever see her around Wilburton?
- A I have seen her at several different places, but I can't remember all the different places that I saw her at.
- Q You don't remember the time, do you?
- A No sir, not exactly, I can't remember the time.
- Q What year was it you saw her at Hartshorne?
- A I think it was somewhere about '94, or no---'97 or '98. Somewhere along there.
- Q 1897 or 1898? A Yes sir.

THE COMMISSIONER: This case will be held open for ten (10) days from date (July 27, 1906) for the purpose of introducing further testimony.

- - - - -

S. T. Wright, being duly sworn, states that as stenographer to the Commissioner to the Five Civilized Tribes he recorded the testimony and proceedings in the above entitled cause, and that the foregoing is a true and correct transcript of his stenographic notes thereof.

S. T. Wright

Subscribed and sworn to before me this August eighth, 1906.

Orenman C. Skaggs
NOTARY PUBLIC.

Mem.-144.
O.I.J.

COPY

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of
Eliza Choate as a citizen by blood of the Choctaw Nation.

DECISION.

It appears from the record herein that application was duly
made for the enrollment of Eliza Choate as a citizen by blood of the
Choctaw Nation within the time limited by the provisions of the Act
of Congress approved April 26, 1906 (Public No. 129).

The record in this case shows that the applicant was born
in about the year 1870 or 1871, and that she is the daughter of Sam
Page (now deceased), a full blood Choctaw Indian, and Sallie Page
(now deceased), a white woman.

It does not appear from the record herein or from the
records in the possession of this office that the applicant, or either
of her parents, has ever been enrolled by the Choctaw tribal authori-
ties as a member of the Choctaw tribe, or admitted to Choctaw citizen-
ship by a duly constituted court or committee of the Choctaw Nation,
or by the Commission to the Five Civilized Tribes, or by the United
States Court in Indian Territory, under the provisions of the Act of
Congress approved June 10, 1896 (29 Stats., 321).

I am, therefore, of the opinion that the application for
the enrollment of Eliza Choate as a citizen by blood of the Choctaw
Nation should be denied, under the provisions of the Act of Congress
approved June 26, 1896 (30 Stats., 496), and it is so ordered.



Commissioner.

Muskogee, Indian Territory,

OCT 2 1906

Memo.-144.

COPY

Muskogee, Indian Territory, October 2, 1906.

Eliza Choate,

Victor, Indian Territory.

Dear Madam:

Inclosed herewith you will find a copy of the decision of the Commissioner to the Five Civilized Tribes, rendered October 2, 1906, denying the application for the enrollment of Eliza Choate as a citizen by blood of the Choctaw Nation.

The decision, with the record of proceedings in the case, is this day transmitted to the Secretary of the Interior for review. The final decision of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

SIGNED *Tamie Dixby*
Commissioner.

Memo.-144.

Registered.

Memo.-144.

COPY

Muskogee, Indian Territory, October 8, 1906

Neal & London,

Port Smith, Arkansas.

Gentlemen:

Inclosed herewith you will find a copy of the decision of the Commissioner to the five civilized Tribes, rendered October 2, 1906, denying the application for the enrollment of Eliza Cheate as a citizen by blood of the Choctaw Nation.

The decision, with the record of proceedings in the case, is this day transmitted to the secretary of the Interior for review. The final decision of the secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

SIGNED *Tamir S. S. S.*

Commissioner.

Memo.-144.

Registered.

Memo.-144.

COPY

Washoe, Indian Territory, October 2, 1906.

Mansfield, McMurray & Gornish,

Attorneys for the Choctaw and Chickasaw Nations,

Wagleson, Indian Territory.

Gentlemen:

Inclosed herewith you will find a copy of the decision of the Commissioner to the five civilized Tribes, rendered October 2, 1906, denying the application for the enrollment of Eliza Choate as a citizen by blood of the Choctaw Nation.

The decision, with the record of proceedings in the case, is this day transmitted to the secretary of the Interior for review. The final decision of the secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

SIGNED

James Bixby

Commissioner.

Memo.-144.

COPY

Muskogee, Indian Territory, October 2, 1906.

The Honorable,

The Secretary of the Interior.

Sir:

There is transmitted herewith record of proceedings in the matter of the application for the enrollment of Elise Cheate as a citizen by blood of the Choctaw Nation, including the decision of the Commissioner to the Five Civilized Tribes, dated October 2, 1906, denying said application.

Respectfully,

Lemo Birby

SIGNED

Commissioner.

2 Incl. --Memo.-144.

Through the

Commissioner of Indian Affairs.

J. } P.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

FHE.

D. C. 9653-1907.
I.T.D. 3174-1907.

February 15, 1907.

L. R. S.

Direct.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

October 2, 1906, you transmitted the record in the matter of the application for the enrolment of Glize Choate as a citizen by blood of the Choctaw Nation, including your decision of the same date, denying said application.

Reporting February 12, 1907 (Land 87309-06), the Indian Office recommends that your decision be approved. A copy of its letter is inclosed.

Your decision is hereby affirmed. The papers in the case and a carbon copy hereof have been sent to the Indian Office.

Respectfully,

Thos Ryan,

First Assistant secretary.

1 inc. and 3 for Ind. Of.

A. F. Mc.
2-16-07.

-Copy-

Land.
87309-1906.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

February 12, 1907.

The Honorable,

The Secretary of the Interior.

Sir:

Referring to Department letter of January 27, 1906, (I. T. D. 7864, 16462-1905) there is inclosed a report from the commissioner to the Five Civilized Tribes, dated October 2, 1906, transmitting the record relative to the application for enrollment of Eliza Choate as a citizen by blood of the Choctaw Nation. On October 2, 1906, the Commissioner held that the applicant was not entitled to enrollment.

The record shows that application was made for Eliza Choate's enrollment, on June 23, 1905. She is the daughter of Sam Page a full blood Choctaw Indian, and Gallie Page, a white woman. It does not appear that the applicant or either of her parents were ever enrolled by the Choctaw tribal authorities, or admitted to citizenship by any court.

Under the provisions of the Act of June 28, 1898, (30 Stat., L., 495), the applicant is not entitled to enrollment.

It is therefore recommended that the decision of the commissioner adverse to the applicant be approved.

Very respectfully,

C. P. Larrabee,
Acting Commissioner.

J. P. B.-NL

Memo-144

7-6011

Muskogee, Indian Territory, February 28, 1907.

Eliza Choate,

Wister, Indian Territory.

Dear Madam:-

You are hereby advised that on February 15, 1907, the Secretary of the Interior affirmed the order of the Commissioner to the Five Civilized Tribes of October 2, 1906, denying the application for the enrollment of Eliza Choate as a citizen by blood of the Choctaw Nation.

Respectfully,

Commissioner.

Memo-144

Muskogee, Indian Territory, February 28, 1907.

Neal & London,

Fort Smith, Arkansas.

Gentlemen:-

You are hereby advised that on February 15, 1907, the Secretary of the Interior affirmed the order of the Commissioner to the Five Civilized Tribes of October 2, 1906, denying the application for the enrollment of Eliza Choate as a citizen by blood of the Choctaw Nation.

Respectfully,

Commissioner.

Memo.-144

Muskogee, Indian Territory, February 28, 1907.

Mansfield, McMurray & Cornish,

Attorneys for the Choctaw and Chickasaw Nations.

McAlester, Indian Territory.

Gentlemen:-

You are hereby advised that on February 15, 1907, the Secretary of the Interior affirmed the order of the Commissioner to the Five Civilized Tribes of October 2, 1906, denying the application for the enrollment of Eliza Choate as a citizen by blood of the Choctaw Nation.

Respectfully,

Commissioner.

Y-4772

McKeesee, Indian Territory, July 21, 1903.

Neal & London,

Attorneys at Law,

Holdenville, Indian Territory.

Gentlemen:

Your letter of June 11, 1903, addressed to the Commissioner of Indian Affairs, has been by the Secretary of the Interior referred to this Commission for consideration and appropriate action. You inclose therewith petition of Elisa Shoate, a half blood Choctaw Indian, praying that this Commission be instructed to permit her to appear before it and be enrolled as a member of the Choctaw tribe of Indians.

In reply to your letter you are informed that it appears from our records that Elisa Shoate, about sixty-two years of age, daughter of Wm. and Jincy Wade, and the wife of George V. Shoate, has been enrolled by this Commission as a citizen by blood of the Choctaw Nation, and her enrollment was approved by the Secretary of the Interior on March 12,

H. A. L. ---2

1908.

You are further informed that from the information contained in your letter and the petition of Eliza Shoate, the Commission is unable to definitely determine whether the petitioner is the Eliza Choate referred to as having been enrolled by the Commission.

If you will state the name and age of Eliza Shoate referred to in your letter and petition, the county of the Choctaw Nation to which she claimed to belong, the names of her parents, the name of her husband and any other information you may possess, which would enable the Commission to identify her upon its records, the matter of her enrollment will receive further consideration.

Respectfully,

Commissioner in Charge.

7-4778

Muskogee, Indian Territory, July 21, 1908.

The Honorable,

The Secretary of the Interior.

Sir:

Receipt is hereby acknowledged of departmental letter of June 29, 1908 (I.T.D. 5250-1908), with which was inclosed communication from Neal & London, transmitting the petition of Eliza Cheate, praying that this Commission be instructed to permit her to appear before it for the purpose of enrollment.

Replying thereto, the Commission has to advise that it appears from our records that Eliza Cheate, sixty-two years of age, daughter of Simon and Jinsay Wade, and wife of George W. Cheate, has been enrolled by this Commission as a citizen by blood of the Choctaw Nation, and on March 19, 1908, her enrollment was approved by the Secretary of the Interior.

The Commission has been unable from the information contained in the petition of Eliza Cheate and the

Sec. ---2

letter of Neal & London, her attorneys, definitely to identify Eliza Cheate, whose name appears upon the approved rolls of citizens by blood of the Choctaw Nation, opposite No. 13803, as the petitioner, Eliza Shoate.

A communication has this day been addressed to Messrs. Neal & London, furnishing the above information, and requesting that they advise the Commission as to the tribal enrollment of Eliza Shoate, the names of her parents, the name of her husband and the county of the Choctaw Nation to which she belongs. The matter of her enrollment will then receive further consideration.

Respectfully,

Commissioner in Charge,

Choctaw 4778

Muskogee, Indian Territory, April 18, 1904.

Neal & London,
Attorneys at Law,
Holdenville, Indian Territory.

Gentlemen:

Referring to your letter of June 11, 1903, addressed to the Commissioner of Indian Affairs, which was, by the Secretary of the Interior, referred to this Commission for consideration and appropriate action and to our letter to you of July 21, 1903, in reply thereto, relative to the petition of Eliza Shoate, a half blood Choctaw Indian, praying that this Commission be instructed to permit her to appear before it and be enrolled as a member of the Choctaw Tribe of Indians, your attention is invited to that portion of our Letter of July 21, 1903, as follows:

"In reply to your letter you are informed that it appears from our records that Eliza Choate, about sixty-two years of age, daughter of Simon and Jinsey Wade, and the wife of George W. Choate, has been enrolled by this Commission as a citizen by blood of the Choctaw Nation, and her enrollment was approved by the Secretary of the Interior on March 19, 1903.

You are further informed that from the information contained in your letter and the petition of Eliza Shoate, the Commission is unable to definitely determine whether the petitioner is the Eliza Choate referred to as having been enrolled by the Commission.

If you will state the name and age of Eliza Shoate referred to in your letter and petition, the county of the Choctaw Nation to which she claimed to belong, the names of her

F & L 2

parents, the name of her husband and any other information you may possess, which would enable the Commission to identify her upon its records, the matter of her enrollment will receive further consideration."

To this letter no response has been received and it is, therefore, presumed that the Eliza Shoate referred to in the petition is the Eliza Choate who was identified upon our records as having been enrolled by the Commission and approved by the Secretary of the Interior on March 19, 1905.

You are requested to advise the Commission if this assumption is correct.

Respectfully,

Chairman.

7-6011.

Muskogee, Indian Territory, July 18, 1906.

Chief Clerk,
Cheetaw Land Office,
Atoka, Indian Territory.

Dear Sir:

For the information of your office there is inclosed herewith copy of Cheetaw Roll Card number 6011, Eliza Cheate.

You are directed to make the duplicate card of this number, in your possession, conform to the information thereon, and add the name of this person to your list of undetermined applicants for enrollment in the Cheetaw and Chickasaw Nations.

Respectfully,

Commissioner.

DCS. 2-18.

Choctaw 6011

Muskogee, Indian Territory, October 10, 1906.

Eliza Choate,

Wister, Indian Territory,

Dear Madam:

Receipt is hereby acknowledged of your letter of October 2, requesting to be permitted to hold your home until your citizenship case is decided.

In reply you are advised that on October 2, 1906, the Commissioner to the Five Civilized Tribes rendered a decision in your case denying your application for enrollment as a citizen by blood of the Choctaw Nation and on the same date the record, together with this decision, was transmitted to the Secretary of the Interior.

If the land on which you own improvements is selected in allotment by another person, pending the determination of your case by the Secretary of the Interior, you will be permitted to make application therefor for the purpose of instituting contest, upon your personal appearance at the land office for the nation in which your land is located.

Respectfully,

Commissioner.

DEPARTMENT OF THE INTERIOR,

WASHINGTON,

RECEIVED

D. C. 2653-1907.
I.T.D. 3174-1907.

February 15, 1907.

L. R. S.

Direct.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

October 2, 1906, you transmitted the record in the matter of the application for the enrolment of Eliza Choate as a citizen by blood of the Choctaw Nation, including your decision of the same date, denying said application.

Reporting February 12, 1907 (Land 87309-06), the Indian Office recommends that your decision be approved. A copy of its letter is inclosed.

Your decision is hereby affirmed. The papers in the case and a carbon copy hereof have been sent to the Indian Office.

Respectfully,

THOS. RYAN,

First Assistant Secretary.

1 inc. and 3 for Ind. Of.

A. P. No.
2-15-07.

-Copy-

Land,
87309-1906.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

February 12, 1907.

The Honorable,

The Secretary of the Interior.

Sir:

Referring to Department letter of January 27, 1906, (I. T. D. 7864, 16462-1905) there is inclosed a report from the commissioner to the Five Civilized Tribes, dated October 2, 1906, transmitting the record relative to the application for enrollment of Eliza Choate as a citizen by blood of the Choctaw Nation. On October 2, 1906, the Commissioner held that the applicant was not entitled to enrollment.

The record shows that application was made for Eliza Choate's enrollment, on June 23, 1905. She is the daughter of Sam Page a full blood Choctaw Indian, and Gallie Page, a white woman. It does not appear that the applicant or either of her parents were ever enrolled by the Choctaw tribal authorities, or admitted to citizenship by any court.

Under the provisions of the Act of June 28, 1898, (30 Stat., L., 495), the applicant is not entitled to enrollment.

It is therefore recommended that the decision of the commissioner adverse to the applicant be approved.

Very respectfully,

G. F. Larrabee,

Acting Commissioner.

J. B. A. H.

7-6011

Muskegee, Indian Territory, June 6, 1907.

Eliza Choate,

Wister, Indian Territory.

Dear Madam:

Receipt is hereby acknowledged of your letter of May 27, 1907, in which you ask that the papers in your case be sent you, as you still wish to prove that you are an Indian and can establish your rights.

In reply to your letter you are advised that on October 2, 1906, the Commissioner to the Five Civilized Tribes rendered a decision denying the application for the enrollment of Eliza Choate as a citizen by blood of the Choctaw Nation, and on February 15, 1907, this action was approved by the Secretary of the Interior.

You are further advised that the original record in your case has been transmitted to the Secretary of the Interior and it is therefore impracticable to comply with your request for the return of the same.

Respectfully,

Commissioner.

3665-1909
Choctaw 3234
Choctaw 6011

Muskogee, Oklahoma, February 15, 1909.

W. T. Stone,
Hartshorne, Oklahoma,
Sir:

Your letter of February 6, addressed to the United States Indian Agent, has been referred to this office for reply. Therein you ask if Maria Smith and Eliza Shoat are enrolled and if they are not, how they may now be enrolled.

Replying thereto you are advised that it appears from the records of this office that one Mariah E. Smith was admitted to citizenship in the Choctaw Nation by a judgment of the United States Court for the Central District of the Indian Territory, which judgment was afterward annulled on December 17, 1902, by the Choctaw and Chickasaw Citizenship Court and no appeal was taken in this case to said Choctaw and Chickasaw Citizenship Court as provided by the act of Congress of July 1, 1902. The application for her enrollment was therefore, on September 22, 1904, dismissed by the Commission to the Five Civilized Tribes.

It further appears that application was made for the enrollment of Eliza Choate for enrollment as a citizen by blood of the Choctaw Nation and this application was denied by the Commissioner to the Five Civilized Tribes on October 2, 1906, and on

February 12, 1907, this action was approved by the Secretary of the Interior.

You are informed that the rolls of citizenship of the Five Civilized Tribes were closed on March 4, 1907 and that this office is now without authority to receive or entertain the application of any person for enrollment as a citizen or freedman of any of said tribes.

Since the date above mentioned there has been no further legislation relative to enrollment in the Five Civilized Tribes nor have I any information as to the probability of the reopening of the rolls in the future.

Respectfully,

Acting Commissioner.

AB

Choc 6012

Morris Battiest

6012

D30r

Commission to the Five Civilized Tribes,
Hartshorne, Indian Territory.

In the enrollment of Morris Battiest as ghostaw by blood;
Katie Foster being sworn and examined by gen'l McKannon testifies:

- Q What is your name? A Katie Foster.
- Q What is your age? A I am twenty-five years old.
- Q You are a colored woman? A Yes sir.
- Q Are you a Choctaw freed woman? A Yes sir.
- Q Have you ever been enrolled? A No sir.
- Q You know Morris Battiest? A Yes sir.
- Q About how old is he? A Well the man that had him claimed
he was four years old when he gave him to me, and that has been
ten years ago.
- Q How long have you known him? A Ten years.
- Q He has been living with you since that time has he?
- A It has been very near three years now since he has been away
from me.
- Q But he lived with you from that time up till three years ago?
- A Yes sir, all the time.
- Q Do you know who his mother was? A No sir, I never saw his
mother.
- Q What have you heard about his mother? A Just what his
aunt told me.
- Q Who is she? A Mrs. Anderson, a Choctaw woman.
- Q What did she tell you? A She said it was her sister's
child.
- Q Was his mother was a Choctaw woman was she? A Yes sir.
- Q Was he born here in the Indian country? A Yes sir, I don't know sir.
- Q How you understood he was born here in the country?
- A Yes sir.
- Q You have known him since he was four years old? A Yes sir.

(Morris Battiest, Mattie Foster witness #2)

Q You don't know of his having come from any other place outside of the Nation? A No sir.

Q You know who his father was? A No sir; his aunt never knew his father.

Q He was an illegitimate child I suppose was he? A Yes sir.

Q Do you understand that he is a full-blood ghoster?

A Yes sir, that's what I always heard, and his aunt is called a full-blood.

Green Matthews being sworn and examined testifies:

Q What is your name? A Green Matthews.

A Age? A Fifty-two.

Q Do you know Morris Battiest? A Yes sir.

Q How long have you known him? A I suppose it has been right along now about ten years, just about.

Q How old was he when you first knew him? A Old man Tobias Edwards said he was four years old when he gave him to my daughter.

Q Who is your daughter? A Mattie Foster.

Q What do you know about his relatives? A Not a thing in the world; they died out years ago when he was small; they lived fifteen or sixteen miles from us.

Q Did his mother die when he was small? A Yes sir, that's what he told me.

Q You understand that he was an illegitimate child?

A Yes sir, that's what the old man told me.

Q Is he a full-blood ghoster? A Yes sir.

Q The children he was born here in the Nation of full-blood ghoster parents who were recognized as citizens? A Yes sir, that's what the old man told me when he first told me; he was born over in Little River country there.

(Morris Batties, Green Matthews witness #2)

Q (By Chick. Com. Anderson) You say that woman, the mother of that boy, died in Little River Country; did Mrs. Anderson say she had a sister up in the mountains there? A Yes sir, she told me that.

William Anderson, Commissioner on part of Chickasaw Nation, being sworn and examined testifies:

Q William Anderson, forty eight years old.

Q You knew of his mother? A Yes sir

Q She was a full-blood Choctaw? A Yes sir, if it is the woman I know.

Q And you understand she had a child? A Yes sir

Q And she gave it away? A Yes sir

Q You are satisfied that this is the child? A Yes sir, I am satisfied it is the same child. But the woman, the way he describes it, I didn't know that there is any one in the mountains at all, but I am satisfied it is the same woman; she had several children and gave them all away.

Q What was Morris Batties's mother's name? A Lucy Batties, I think, if it is the same woman.

Department of the Interior,
Commissioner of Indian Affairs,
Washington, D. C.
SIGNED: _____
WITNESSED: _____
my stenographic notes.

MDW

Department of the Interior.
Commission to the Five Civilized Tribes.
Muskogee, Indian Territory, April 8, 1902.

.....
:: In the matter of the application ::
:: of Morris Battiest for enrollment ::
:: as a citizen of the Choctaw Nation. ::
.....

D-302.

On the 28th day of February, 1902, the applicant was notified by registered mail, and on the 6th day of March, 1902, the attorneys for the Choctaw and Chickasaw Nations were also notified by registered mail that the application of Morris Battiest for enrollment as a citizen of the Choctaw Nation would be taken up by the Commission to the Five Civilized Tribes at its office in Muskogee, Indian Territory, on the 8th day of April, 1902, for final consideration.

Now on this 8th day of April, 1902, this cause coming on to be heard, pursuant to said notice, the Choctaw Nation failed to appear, and the applicant being called failed to appear either in person or by attorney.

Hal Belford, being first duly sworn, upon his oath states that as stenographer to the Commission to the Five Civilized Tribes he reported in full all the proceedings in the above entitled cause on the 8th day of April, 1902, and that the above and foregoing is a full, true and correct transcript of his stenographic notes in said cause on the said day of April, 1902.

Subscribed and sworn to before me this 6 day of April, 1902.

Cara Mitchell Wood
Notary Public.

Department of the Interior.
Commission to the Five Civilized Tribes.
South McAlester, Ind. Ter., December 24th, 1902.

Original
Choctaw.

In the matter of the original application of Morris Battiest for enrollment as a citizen by blood of the Choctaw Nation.

Morris Battiest, having been first duly sworn, upon his oath testifies as follows:

Examination by the Commission:

- Q What is your name? A Morris Battiest.
Q How old are you? A Twenty one.
Q What is your post office address? A Gowen, Indian Territory.
Q How long have you lived in the Choctaw Nation? A I have been in here about seven years.
Q Where were you before that? A I was at Tuskahoma.
Q Where were you born? A I couldn't tell where I was born.
Q Have you ever been outside of the Choctaw Nation? A No sir.
Q Who was your father? A Couldn't tell you.
Q Who was your mother? A I don't know sir.
Q Do you know whether you have ever been enrolled as a citizen of the Choctaw Nation by the tribal authorities? A No sir.
Q Did you ever draw any money as a citizen? A No sir.
Q You don't know anything about your father and mother? A No sir.
Q Who raised you? A Mathews.
Q Was he an Indian? A Part.
Q What was the other part? A Part nigger.
Q Did he ever tell you anything about your mother and father? A No sir.

(Applicant Excused)

G. W. Dukes, called as a witness, having been first duly sworn, upon his oath testifies as follows:

Examination by the Commission:

- Q What is your name? A G. W. Dukes.
Q How old are you? A Fifty three.
Q What is your post office address? A Talihina, Indian Territory.
Q Are you a citizen by blood of the Choctaw Nation? A Yes sir.
Q You have held numerous official positions in the nation? A Yes sir.
Q Do you know this applicant, Morris Battiest? A I don't know whether I could swear to it, but there was an Indian boy who applied for enrollment and was in the possession of some colored people. It

Morris Battiest-----2

was an orphan boy at Tuskehoma, and when the Commission was making the enrollment for the 1893 payment I was one of the Commissioners and this boy appeared there. My understanding is that he should be on the payment roll of Wade County, but I told those colored people that they could not draw his money unless they should be appointed guardians for the boy, and whether they did that afterwards or not, I could not say. But at any rate they had a little Indian boy in their possession and wanted to enroll him, and my best recollection is that we enrolled him but told them they would have to obtain letters of guardianship before they could draw the money. Since then I have not seen him, or don't know a thing about him.

Q Do you know who his father and mother were? A No sir.

Q This applicant is apparently a full blood Choctaw? A Apparently yes sir.

(Witness Excused)

Simon E. Lewis, called as a witness, having been first duly sworn, upon his oath testifies as follows:

Examination by the Commission:

Q What is your name? A Simon E. Lewis.

Q What is your age? A Sixty two.

Q What is your post office address? A Mollister.

Q You are a citizen by blood of the Choctaw Nation? A Yes sir.

Q You have occupied numerous official positions in the Choctaw tribe?

A Yes sir.

Q Do you know this boy Morris Battiest? A I don't know him personally.

Q What do you know about him? A Only what I have gathered by inquiry. I have been putting myself to considerable trouble to find out who he is. His mother was Joe Okaletubbee's sister. There is also a sister to his mother who is Edmund Anderson's wife.

Q How long have you known this boy? A We met him at Hattiesburg when we were enrolled there three years ago, but I have made inquiry as to who he was since that time.

Q Do you know of any tribal recognition that he has had? A No sir.

Q The boy has always lived in the Choctaw Nation to the best of your knowledge? A Yes sir.

Q Born here? A Yes sir. It seems his mother was a loose woman, and gave him to a family of state freedmen and they had neglected to enroll him. He is a full blood Indian but can't talk a word of Choctaw.

(Witness Excused)

In addition to the above, the following testimony was taken by the Commission at Muskogee, Indian Territory, on the North Day of December, 1893. As regards to this matter prior to the enrollment of the applicant, Morris Battiest, the Commission heard the following:

That Morris Battiest, having been about fifty years, was a

Morris Battiest-----3.

Examination by the Commission:

- Q What is your name? A Nancy Anderson.
Q What is your age? A I don't know, about fifty five.
Q What is your post office address? A Tuskahoma, Indian Territory.
Q You are a recognized citizen of the Choctaw Nation? A Yes sir.
Q Do you know Morris Battiest? A Yes, I know him.
Q Is he any kin of yours? A Yes sir, his mother was my sister.
Q How old is Morris Battiest? A I think about eighteen.
Q Where does he live? A He was living up north and wrote me a letter this summer and I answered it and never heard from him since.
Q Does he live in Indian Territory? A Yes, he was living in Indian Territory.
Q In the Choctaw Nation? A Yes.
Q Has he always lived in the Choctaw Nation? A As far as I know he has never been out.
Q Do you know where Morris Battiest was born? A No sir, his father's name was Morris Homma and his right name is Morris Homma instead of Morris Battiest.
Q Do you know who Morris Battiest was living with when the 1893 payment was made? A At the time the payment was made Morris was with a colored family--Green Mathews' family. Morris never got the money in this payment--that is I heard he never got the payment.
Q How long since you have seen Morris Battiest? A His mother brought the boy Morris to my house when he was a year and a half old and he stayed with me a year, and I seen him afterwards when he was about ten years old.
Q Who was he living with at that time? A He was with the daughter of Green Mathews, a colored man.

(Witness Excused)

Edmund Anderson, called as a witness, having been first duly sworn, upon his oath testifies as follows:

Examination by the Commission:

- Q What is your name? A Edmund Anderson.
Q How old are you? A I think about sixty five.
Q What is your post office address? A Tuskahoma.
Q Do you know Morris Battiest? A Yes.
Q How long have you known him? A Since a little boy.
Q Who was his mother? A Late, I don't know the other name.
Q Was she a Choctaw Indian? A Yes sir.
Q Do you know the name of his father? A I couldn't hardly tell. Thomas is all I heard.
Q Is this boy Morris Battiest a full blood Choctaw? A Yes sir.
Q Do you know whether he ever received his share of the 1893 leased district money? A No.
Q Do you know whether his name appears on any of the tribal rolls of the Choctaw Nation? A No.
Q Do you know whether any application was ever made for his enrollment to the Commission to the Five Civilized Tribes? A I don't know nothing about that.

Morris Battiest-----4

Q When was the last time you saw this boy Morris Battiest? A The last time I seen him over at Green Mathews, about four years ago.

Q He has always lived in the Choctaw Nation? A Yes, but colored folks raised him.

Q He has been recognized by the Indians as a Choctaw Indian? A Yes he is Choctaw, full blood.

Q Do you know who this boy was living with in 1893? A No.

Q Do you know who he was living with in 1896? A No.

(Witness Excused)

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Harry G Hixteen, being first duly sworn, upon his oath states: That as stenographer to the Commission to the Five Civilized Tribes he reported in full all proceedings had in the above entitled cause on the 10th and 24th days of December, 1902, and that the above and foregoing is a full, true and correct transcript of his stenographic notes of said proceedings on said dates.

Harry G. Hixteen

Subscribed and sworn to before me this 20 day of December, 1902

Charles H. Sawyer

Notary Public.

Department of the Interior.
Commission to the Five Civilized Tribes.
South McAlester, Ind. Ter., December 24th, 1902.

Original
Choctaw.

In the matter of the original application of Morris Battiest for enrollment as a citizen by blood of the Choctaw Nation.

Morris Battiest, having been first duly sworn, upon his oath testifies as follows:

Examination by the Commission:

Q What is your name? A Morris Battiest.
Q How old are you? A Twenty one.
Q What is your post office address? A Gowen, Indian Territory.
Q How long have you lived in the Choctaw Nation? A I have been in here about seven years.
Q Where were you before that? A I was at Tuskahoma.
Q Where were you born? A I couldn't tell where I was born.
Q Have you ever been outside of the Choctaw Nation? A No sir.
Q Who was your father? A Couldn't tell you.
Q Who was your mother? A I don't know sir.
Q Do you know whether you have ever been enrolled as a citizen of the Choctaw Nation by the tribal authorities? A No sir.
Q Did you ever draw any money as a citizen? A No sir.
Q You don't know anything about your father and mother? A No sir.
Q Who raised you? A Mathews.
Q Was he an Indian? A Part.
Q What was the other part? A Part nigger.
Q Did he ever tell you anything about your mother and father? A No sir.

(Applicant Excused)

G. W. Dukes, called as a witness, having been first duly sworn, upon his oath testifies as follows:

Examination by the Commission:

Q What is your name? A G. W. Dukes.
Q How old are you? A Fifty three.
Q What is your post office address? A Talihina, Indian Territory.
Q Are you a citizen by blood of the Choctaw Nation? A Yes sir.
Q You have held numerous official positions in the nation? A Yes sir.
Q Do you know this applicant, Morris Battiest? A I don't know whether I could swear to it, but there was an Indian boy who applied for enrollment and was in the possession of some colored people. It

Morris Battiest-----2

was an orphan boy at Muskahoma, and when the Commission was making the enrollment for the 1893 payment I was one of the Commissioners and this boy appeared there. My understanding is that he should be on the payment roll of Wade County, but I told those colored people that they could not draw his money unless they should be appointed guardians for the boy, and whether they did that afterwards or not, I could not say. But at any rate they had a little Indian boy in their possession and wanted to enroll him, and my best recollection is that we enrolled him but told them they would have to obtain letters of guardianship before they could draw the money. Since then I have not seen him, or don't know a thing about him.

Q Do you know who his father and mother were? A No sir.

Q This applicant is apparently a full blood Choctaw? A Apparently yes sir.

(Witness Excused)

Simon E. Lewis, called as a witness, having been first duly sworn, upon his oath testifies as follows:

Examination by the Commission:

Q What is your name? A Simon E. Lewis.

Q What is your age? A Sixty two.

Q What is your post office address? A McAlester.

Q You are a citizen by blood of the Choctaw Nation? A Yes sir.

Q You have occupied numerous official positions in the Choctaw tribe? A Yes sir.

Q Do you know this boy Morris Battiest? A I don't know him personally.

Q What do you know about him? A Only what I have gathered by inquiry. I have been putting myself to considerable trouble to find out who he is. His mother was Joe Okalotubbee's sister. There is also a sister to his mother who is Edmund Anderson's wife.

Q How long have you known this boy? A We met him at Hartshorne when we were enrolled there three years ago, but I have made inquiry as to who he was since that time.

Q Do you know of any tribal recognition that he has had? A No sir.

Q The boy has always lived in the Choctaw Nation to the best of your knowledge? A Yes sir.

Q Born here? A Yes sir. It seems his mother was a loose woman, and gave him to a family of state freedmen and they neglected to enroll him. He is a full blood Indian but can't talk a word of Choctaw.

(Witness Excused)

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In addition to the above, the following testimony was taken by the Commission at Muskahoma, Indian Territory, on the tenth day of December, 1902, in regard to this matter, prior to the appearance of the applicant, Morris Battiest, in person before the Commission:

Nancy Anderson, having been first duly sworn, upon her oath testifies as follows:

Morris Battiest-----3.

Examination by the Commission:

Q What is your name? A Nancy Anderson.
Q What is your age? A I don't know, about fifty five.
Q What is your post office address? A Tuskahoma, Indian Territory.
Q You are a recognized citizen of the Choctaw Nation? A Yes sir.
Q Do you know Morris Battiest? A Yes, I know him.
Q Is he any kin of yours? A Yes sir, his mother was my sister.
Q How old is Morris Battiest? A I think about eighteen.
Q Where does he live? A He was living up north and wrote me a letter this summer and I answered it and never heard from him since.
Q Does he live in Indian Territory? A Yes, he was living in Indian Territory.
Q In the Choctaw Nation? A Yes.
Q Has he always lived in the Choctaw Nation? A As far as I know he has never been out.
Q Do you know where Morris Battiest was born? A No sir, his father's name was Morris Homma and his right name is Morris Homma instead of Morris Battiest.
Q Do you know who Morris Battiest was living with when the 1893 payment was made? A At the time the payment was made Morris was with a colored family--Green Mathews' family. Morris never got the money in this payment--that is I heard he never got the payment.
Q How long since you have seen Morris Battiest? A His mother brought the boy Morris to my house when he was a year and a half old and he stayed with me a year, and I seen him afterwards when he was about ten years old.
Q Who was he living with at that time? A He was with the daughter of Green Mathews, a colored man.

(Witness Excused)

Edmund Anderson, called as a witness, having been first duly sworn, upon his oath testifies as follows:

Examination by the Commission:

Q What is your name? A Edmund Anderson.
Q How old are you? A I think about sixty five.
Q What is your post office address? A Tuskahoma.
Q Do you know Morris Battiest? A Yes.
Q How long have you known him? A Since a little boy.
Q Was his mother? A Yes, I don't know the other name.
Q Was she a Choctaw Indian? A Yes sir.
Q Do you know the name of his father? A I couldn't hardly tell, though I heard.
Q Is this boy Morris Battiest a full blood Choctaw? A Yes sir.
Q Did you know whether or not he received his share of the 1893 payment? A Yes.
Q Do you know whether or not he appears to be a citizen of the Choctaw Nation? A Yes.
Q Do you know whether or not he is a citizen of the United States? A Yes.

Morris Battiest-----4

- Q When was the last time you saw this boy Morris Battiest? A The last time I seen him over at Green Mathews, about four years ago.
- Q He has always lived in the Choctaw Nation? A Yes, but colored folks raised him.
- Q He has been recognized by the Indians as a Choctaw Indian? A Yes he is Choctaw full blood.
- Q Do you know who this boy was living with in 1893? A No.
- Q Do you know who he was living with in 1896? A No.
- (Witness Excused)

---000---

Harry C. Riaton, being first duly sworn, upon his oath states: That as stenographer to the Commission to the Five Civilized Tribes he reported in full all proceedings had in the above entitled cause on the 10th and 24th days of December, 1902, and that the above and foregoing is a full, true and correct transcript of his stenographic notes of said proceedings on said dates.

Harry C. Riaton

Subscribed and sworn to before me this *30* day of December, 1902

Charles H. Sawyer

Notary Public.

37650

AUG 9 1905

Lachlan. He tells you that "Cuthbert Anderson"
killed his own aunt and that his mother
followed Macrae and Hibernia but he
lost them in his first years
He says he did not marry } William Thompson
J. Kitchin who

July 17 1904 -

on this 17 day of July 1904 -

appeared before me Culberson Thompson

and Prosperous and states on oath

that His name is Culberson Thompson

that he is a full blood Choctaw

Indian that he is 35 years of age

and that he has known Morris Ballin

as Jefferson ever since he was 17 years old

that he knows him to be the son of

Jey Teshouba a full blood Choctaw

Indian and states he has seen him

with his mother many times and states

that he has seen him since her recent

and always claimed him as ^{her} child

he further states that Thomas Jefferson was

his father who was a full blood Choctaw

Indian. also states that Edward Anderson

was his own aunt and that his mother's

father's name was Teshouba but he

does not remember his first name

Sworn to this 17 day of July } Culberson Thompson
I, Hamilton, Notary

Commissioner

7-D-302

In Re
Citizenship
Morrison's Patent
a Choctaw

Argument, by

DEPARTMENT OF THE INTERIOR,
Comptroller of the Public Land and Tribes.

FILED

SEP 1905

Comptroller

Cole & Buell
Attorneys for
applicant
South M. A. Lester
Ind. Per

BEFORE HON. TAMS BIXBY, COMMISSIONER TO THE FIVE CIVILIZED TRIBES, MUSKOGEE, INDIAN TERRITORY.

Referred to by the
Commissioner as
7-D-302

In Re,

Application for enrollment of
Morris Battiest, a Choctaw.

ARGUMENT OF COUNSEL FOR APPLICANT.

There has been no great amount of testimony submitted to the Commission on the part of the Applicant in this matter, but we trust the Commission will take into consideration the fact that the Applicant, and the parties who appeared for him, are full-blood Indians and are not acquainted with the necessities of such matters, and the further fact that there is no dispute as to his right to be enrolled as a member of the Choctaw Tribe.

There is no doubt that the Applicant is a full blood Choctaw Indian. His looks show it, and the testimony clearly shows that all of his ancestors were members of said Tribe, duly enrolled and recognized as such. What more is necessary?

It makes no difference what name he goes by, or by what name he may be placed upon the rolls; it does not effect or change the fact that he is the son of a full-blood Choctaw woman, a member of said Tribe. Applicant has no recollection of his mother, she having died when he was too small to remember, and he has since been called by several different names.

We take it for granted that there is sufficient evidence before the Commission to entitle the Applicant to enrollment in said Choctaw Tribe, but should the Commissioner conclude that the evidence is insufficient, then we would ask the Commissioner to order or allow additional testimony of witnesses, which can be produced, and which will clearly show, beyond any question of a doubt, that said Applicant is entitled to enrollment by reason of his Mother's being a full-blood Choctaw Indian, who was duly enrolled, and likewise all of her ancestors.

Respectfully submitted

Morris Battiest

Per. Chas F Buell

His Attorneys.

United States of America
Central District
Indian Territory

I, ESLIE B. COLE, being first duly sworn, state on oath that I personally served the above and foregoing Argument on Mansfield, Mc Murry and Cornish, attorneys for the Choctaw and Chickasaw Nations, on the 29th day of September, 1905, in the city of South McAlester, Ind. Ter., by then and there registering through the Post Office and mailing to them, at South McAlester, I.T., a true copy of said Argument, and that the registry receipt for same is hereto attached and made a part hereof.

subscribed and sworn to before me
this 29th day of September, 1905.

E. Allan Boyd Notary Public.

Before Hon Tams Bixby, Commissioner,
To the Five civilized tribes.
Muskogee Ind, Ter.

Commissioner's No 7-D-302.

(In re :-)
(Application for enrollment of)
(Morris Battiest- A Choctaw.)

Supplemental Argument on behalf of Applicant.

By Preslie B. Cole, Attorney for
Morris Battiest.

The testimony of G. W. Dukes, a Choctaw citizen who is on the rolls, given in this case on the 24,th day of December 1902, shows that the applicant Morris Battiest is apparently a full Blood Indian; and that in 1893, some Negroes came with a Choctaw orphan boy to Tushka-homma and wanted to draw his share of the Choctaw Lease money, and that he told these colored people that they would have to be appointed Guardian for the boy, and to the best of his recollection they enrolled the boy but he is not positive. The applicant Morris Battiest states in his testimony given on said date that he was then residing at Gowen I, T, but that he formerly about seven years prior thereto at Tushkahomma and that some Negro's raised him. The testimony of Simon E. Lewis in this case shows that he had put himself to a great deal of trouble to find out the ancestry of Morris Battiest, and he stated on his oath that said Morris Battiest the applicant herein is a son of Joe Okalotubbee's Sister, and also a Sister of the wife of Edmund Anderson residing at Tushkahomma Ind, Ter, That the applicants mother was a Choctaw but a loose woman and that she gave him to a family of freedmen and they neglected to enroll him.

The testimony of Nancy Anderson shows that she is a citizen of the Choctaw Nation, (and the records will show that she is a citizen by blood) and that the applicant is her Sisters son, that he was born in the Choctaw Nation and always lived in the Choctaw Nation, and that his father's name was "Morris Homma", and that in the year of 1893, when the Lease District payment was made to the Choctaws the applicant was living with a Negro family named "Green Matthews", who raised him.

Edmund Anderson, testified in this case, and he stated that he had known the applicant since he was a little boy, and that his Mother was named Isie, and that he did not know her other name, but that she was a Choctaw Indian, and that the applicant is a full blood Choctaw Indian and had always been recognized as a Choctaw Indian but that Colored folks raised him, and that he did not know whether the applicant had ever been enrolled or that application had ever been made for his enrollment.

The testimony of the above named witnesses taken in connection with the Rolls, customs, and usages of the Choctaw Nation, ought to entitle the applicant to enrollment beyond any question of a doubt :-

The Rolls of the Choctaw Nation will show that Nancy Anderson, and Joe Okalotubbee, and their Mother ~~was a full blood~~ were full blood Choctaw Indians, at least such would have been the state of facts, had the Commission interrogated the various witnesses on that point. The Commission failed to ask (or at least it appears so from the testimony) Nancy Anderson, the Sister of applicants Mother, the full name of applicants Mother, and the only testimony on that point is the statement of her brother-in-law Edmund Anderson who testified that her first name was Isie and he did not know her other name. The testimony of Nancy Ander-

(2)

derson, Edmund Anderson, and Simon E. Lewis, clearly shows that the applicants Mother was a Sister of Joe Okalotubbee, and Nancy Anderson, and that the said Nancy Anderson, and Joe Okalotubbee, were full blood Choctaw Indians, and the records of the Commissioner to the five civilized tribes will show that their names are on the Choctaw Rolls, and had the witnesses been closely interrogated they would have learned from Nancy Anderson at least, the name of applicants mother in full, and they would also have learned that, applicants Mother; Nancy Anderson; and Joe Okalotubbee, were full brothers and Sisters, and were the Children of a full blood Choctaw woman and deriving their citizenship from the same ancestry.

In conclusion I further submit, that the testimony shows that the applicants Mother was named Isie, was a full blood Choctaw Indian, and a Sister of Joe Okalotubbee, and Nancy Anderson both full blood Choctaws and on the rolls, and that the applicants mother was recognized as a Choctaw, it appears (though not from the record before me) that she died prior to the making of the Rolls for the 1893, payment, and was not on that roll, and that her name has not been sufficiently established to ascertain whether or not she is on any roll made prior to the 1892, Roll, but that she was born in the Choctaw Nation, and that there is no doubt about her being a Choctaw and entitled to be enrolled. The testimony fully established the further fact, that the applicant is a full blood Choctaw Indian and has always been recognized as such, and was born and raised in the Choctaw Nation and is the son of a Sister of Joe Okalotubbee and Nancy Anderson, all full blood Choctaw Indians, and recognized as such, and that the applicant made application within the time provided by law for making application for his enrollment, and that under this state of facts he is clearly entitled to be enrolled as a member of the Choctaw tribe of Indians, but in the event the Commissioner should decide that the testimony does not show sufficient facts to entitle him to enrollment, I submit that it would commit a great error in my opinion, considering the former rulings of the Department in citizenship cases, where it is held that the "Child is born of the allegiance of the Mother", or "Parent" or words to that effect, then the case narrows itself down to this point: - Applicant is a Choctaw and so conceded by every one who has seen him: - His Mother was a Choctaw and entitled to be enrolled as such: - She was a Sister to ~~of~~ two full bloods who are on the rolls, all having the same Mother: - Their Mother was on the Rolls, and also a full blood Choctaw: - Then this being the case, the applicant is born of the allegiance of his Mother, who was born of the allegiance of her Mother, who was the mother of Joe Okalotubbee, and Nancy Anderson: -

I therefore ask that upon the facts, records, laws, customs and usages which I deem unnecessary to quote herewith, except as heretofore briefly set forth, and in the interest of Justice, that the applicant be enrolled as a Choctaw Indian with all the rights privileges and immunities as such.

Respectfully submitted,


Attorney for Morris Battiest.

U. S. Registered Mails go to every post office in the world. Letters sent by registered mail are guaranteed to reach their destination. If a letter is lost, the sender can recover the contents. Registered mail is also used for sending money orders and other valuable documents. It is the safest way to send anything of importance.

Letter No. 1103 P. O., South McAlester, Ind. T.

Received for registration April 18, 1906, from

addressed to Mansfield McMurray & Cornish

class postage prepaid

Postmaster, per

WM. NOBLE.

No 7-D-302.

In Re :-

Morris Battiest, , , , , Applicant.

Vs

Choctaw Nation, , , , , Respondant.

PROOF OF SERVICE.

I, Preslie B. Cole being duly sworn deposes and says :- That I served the within, foregoing, and above named Supplemental Argument, on the 18,th day of April 1906, by causing the Post Master at South McAlester Indian Territory, to Register a Letter containing a true perfect and literal copy of same, addressed to Mansfield McMurray & Cornish at South McAlester Ind., Ter, Attorneys for the Choctaw and Chickasaw Nation's - said Attorneys being absent from the Indian Territory. That a Registry receipt for said letter is hereto attached and made a part hereof.

Preslie B. Cole

Subscribed and sworn to before me on this the 19th day of April, 1906.
My Commission expires on the 12,th day of March 1910.

J. C. Swinney

Notary Public.

Before the Hon Tams Bixby, Commissioner:-

To the Five civilized tribes at

Muskogee Indian Territory,

-----:0:0:0:-----

No 7-D-302. .

In Re :-

Morris Battiest,.....,Applicant.

Vs

Choctaw Nation,.....,Respondant.

PROOF OF SERVICE.

I, Preslie B. Cole being duly sworn deposes and says :- That I served the within, foregoing, and above named Supplemental Argument, on the 18,th day of April 1906, by causing the Post Master at South McAlester Indian Territory, to Register a Letter containing a true perfect and literal copy of same, addressed to Mansfield McMurray & Cornish at South McAlester Ind, Ter, Attorneys for the Choctaw and Chickasaw Nation's - said Attorneys being absent from the Indian Territory. That a Registry receipt for said letter is hereto attached and made a part hereof.

Preslie B. Cole

Subscribed and sworn to before me on this the 19th day of April, 1906.
My Commission expires on the 12,th day of March 1910.

J. C. Swearingen

Notary Public.

7-60/2

No. 7-D-302.

In Re :-

Application of :-

Morris Battiest., Applicant.

Vs.

Choctaw Nation,, Respondent.

Supplemental Argument.

DEPARTMENT OF THE INTERIOR
COMMISSIONER OF THE BUREAU OF LAND MANAGEMENT

APR 21 1906

W. M. BROWN

Preslie B. Cole.
So McAlester I. T.

Attorney for Applicant.

No. "7-D-302."

Morris Mattiest,

Applicant.

Vs.

Magaw Nation,

Respondent.

Petition for removal.

DEPARTMENT OF THE
COMMISSIONER OF THE LAND OFFICE

FILED

JUL 21 1906

Preslie R. Cole.
So McAlester I. T.

Attorney for Applicant.

Registered Mails go to
every post office in the world.
Letters and parcels may be registered
at any post office.
When registered, they are insured
against loss or damage.

Letter
No. 164

P. O.,

South

Received for registration

July 20, 1906. from 10³⁸am

Preslie B. Cole
addressed to Mansfield Murry & Cornish
City

Postage prepaid

Postmaster, per

103

Morris Battiest,

Applicant.

Vs.

The Choctaw Nation,

Respondent.

Proof of service.

I, Preslie B. Cole over the age of 21, years hereby state on oath that I served a copy of the above, within and foregoing named, Application for enrollment of said Morris Battiest, in the City of South McAlester Indian Territory, by then and there causing a true copy thereof to be registered by the Post Master, in a letter addressed to Mansfield Murry & Cornish attorneys for the Choctaw and Chickasaw Nation's at South McAlester Ind. Territory : That a registry receipt therefor, is hereto attached and made a part hereof.

Preslie B. Cole

Affiant.

Subscribed and sworn to before me on this the 20. th day of July 1906.

Wm W. Evans

Notary Public.

161
Preslie B. Cole
Murry & Connish
161

Before Hon Tams Bixby, Commissioner to the Five
civilized tribes - Muskogee Indian Ter.

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Morris Battiest,

Applicant.

Vs.

The Choctaw Nation,

Respondent.

Proof of service.

I, Preslie B. Cole over the age of 21, years hereby state on oath that I served a copy of the above, within and foregoing named, Application for enrollment of said Morris Battiest, in the City of South McAlester Indian Territory, by then and there causing a true copy thereof to be registered by the Post Master, in a letter addressed to Mansfield McMurry & Connish attorneys for the Choctaw and Chickasaw Nation's at South McAlester Ind, Territory : That a registry receipt therefor, is hereto attached and made a part hereof.

Preslie B. Cole Affiant.

Subscribed and sworn to before me on this the 20, th day of July 1906.

W. N. Eubank Notary Public.

Before Hon Tams Bixby, Commissioner to the Five,
Civilized tribes at Muskogee Indian Territory.

:0:0:0:

" 7-D-302".

In Re :-

Morris Battiest,
Applicant.

Vs,

Choctaw Nation,
Respondent.

Petition for enrollment.

Comes now Morris Battiest a resident of the Choctaw Nation Indian Territory, and presents herewith his application for enrollment as a member of the Choctaw tribe of Indians, and for right to said enrollment presents the following facts to wit :-

That heretofore and prior to the 25, day of December 1902, under and by virtue of the various Acts of Congress, the applicant Morris Battiest, made application in person to the United States Commissioners to the Five civilized tribes of Indians, for enrollment as a member of the Choctaw tribe, in support of same said applicant also presented witnesses and competent testimony in accordance with the law, and the rules of said Commission, and that said application has not heretofore, as applicant is informed and believes, been acted upon nor any decision rendered by said Commissioners. :-

Applicant further says :- That heretofore to wit :- On the 21, st day of June 1906, there was passed by the Congress of the United States An Act, entitled "Public No 258", providing for "Appropriations for the current and contingent expenses of the Indian Department, for fulfilling treaty stipulations with various Indian tribes, and for other purposes for the fiscal year ending June 30, th 1907, "and among other things provided in said Act, and under the subject of "FIVE CIVILIZED TRIBES" is the following to wit :-

"That the Commissioner to the five civilized tribes is hereby authorized to add the names of the following persons to the final roll of the citizens by blood of the Choctaw tribe : Malinda Pickens, Morris Battiest, etc, PROVIDED, That the enrollment of said persons by the Commissioner to the five civilized tribes shall not be objected to by the said tribes, and shall be approved by the Secretary of the Interior"

Said applicant Morris Battiest further says :- That under the above Act, and the evidence heretofore produced by him before said Commissioners to the Five civilized tribes he is entitled to enrollment.

WHEREFORE, he prays that he be enrolled by said Commissioner as a member of said Choctaw tribe, and in duty bound he will ever pray.

Morris Battiest,
Applicant.

Comes now Morris Battiest the above named applicant and states on oath

that the matters and facts set forth in the above and foregoing Petition are true and correct.

Witnessed by .

W H Lot

of Nor I.T.

Morris X Battist
Applicant.

Subscribed and sworn to before me on this the 17 day of July 1906.

L. E. Melvain Notary Public.

COMMISSIONERS
HENRY L. DAWES.
TAMM SIXBY.
THOMAS B. NEEDLES.
C. R. BRECKINRIDGE

ALLISON L. AYLESWORTH
SECRETARY

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES.

REFER IN REPLY TO THE FOLLOWING

Choctaw D-302.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

Muskogee, Indian Territory, February 28, 1902.

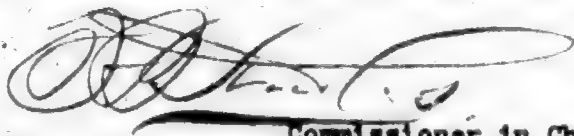
Morris Battiest,
Hartshorne, Indian Territory.

You are hereby notified that your application for enrollment as a citizen of the Choctaw Nation will be taken up by the Commission to the Five Civilized Tribes for final consideration at its office in Muskogee, Indian Territory, on the 8th day of April, 1902.

On said date you may, if you desire, appear before the Commission in person or by attorney, when an opportunity will be given you to introduce any additional testimony affecting said application.

You are further notified that the representatives of the Choctaw Nation will also, at the same time be afforded an opportunity to introduce testimony affecting your right to enrollment, but said representatives will be required to notify you of their intention to introduce such testimony before they will be permitted to do so.

The Commission to the Five Civilized Tribes.



Commissioner in Charge.

Register.

Choctaw 5-302.

Muskogee, Indian Territory, July 30, 1904.

A. B. Becker,

South McAlester, Indian Territory.

Dear Sir:

Receipt is hereby acknowledged of your letter of July 23, asking the status of the case of Morris Battiest.

In reply to your letter, you are informed that it appears from our records that Morris Battiest is an applicant for enrollment as a citizen of the Choctaw Nation, but it does not appear that he has been identified upon any of the tribal rolls of the Choctaw Nation in the possession of the Commission. His final right to enrollment as a citizen of the Choctaw Nation has not yet been determined.

If Morris Battiest can introduce any testimony which will identify him upon the tribal rolls of the Choctaw Nation, it would be well for him to appear either at the office of the Commission in Muskogee, or at one of the appointments at the Choctaw Land Office, Atoka, Indian Territory, September 6 and 7, or at the Chickasaw Land Office, Tishomingo, Indian Territory, September 8 and 9, 1904.

Respectfully,

Commissioner in Charge.

Choctaw-D-202.

Muskogee, Indian Territory, October 8, 1904.

A. E. Becker,

South McAlester, Indian Territory.

Dear Sir:

On July 30, 1904 the Commission acknowledged receipt of your letter of July 22, 1904, in which you asked the status of the case of Morris Battiest, who is an applicant before this Commission for enrollment as a citizen by blood of the Choctaw Nation. You were advised at that time that the Commission was unable to identify said Morris Battiest as a citizen by blood of the Choctaw Nation and that it would be necessary for said Morris Battiest to introduce testimony, which will enable the Commission to identify him upon the tribal rolls of the Choctaw Nation.

You are again advised that, before the Commission can determine the right of said Morris Battiest to enrollment as a citizen by blood of the Choctaw Nation, it will be necessary for him to introduce said testimony.

He should, therefore, appear with his witnesses before the Commission at its office in Muskogee, Indian Territory as soon as possible.

Respectfully,

7-D-302

Muskogee, Indian Territory, January 21, 1906.

McCurtain & Will,

Attorneys at Law.

South McAlester, Indian Territory.

Gentlemen:

Receipt is hereby acknowledged of your letter of January 18, 1906, stating that you are in receipt of a letter from Mars Battese which was probably meant for Morris Battiest, Cowen, Indian Territory, in which he states that he has not been placed upon the rolls. You therefore ask the status of his application for enrollment.

In reply to your letter you are advised that the Commission is now considering the application of Morris Battiest, son of Icey Haklotubbe for enrollment as a citizen by blood of the Choctaw Nation and when a decision is reached in this case he will be notified of the action taken therein.

Respectfully,

Chairman.

7-D-302

Muskogee, Indian Territory, August 25, 1905.

Cole & Buell,

Attorneys at Law.

South McAlester, Indian Territory.

Gentlemen:

Receipt is hereby acknowledged of your letter of August 19, 1905, asking if Morris Battiest sometime known as Morris Jefferson, son of Isay Jefferson has been enrolled.

In reply to your letter you are advised that the application of Morris Battiest, son of Isay Haklotubbe for enrollment as a citizen by blood of the Choctaw Nation is now receiving consideration and when a decision is reached you will be notified of the action taken therein.

Respectfully,

Commissioner.

7-D-302

Muskogee, Indian Territory, November 29, 1905.

Preslie B. Cole,

Attorney at Law,

South McAlester, Indian Territory.

Dear Sir:

Receipt is hereby acknowledged of your letter of November 24, 1905, asking if the application of Morris Battiest for enrollment as a citizen by blood of the Choctaw Nation has yet been passed upon.

In reply to your letter you are advised that this case is now receiving consideration and as soon as decision is reached therein you will be notified of action taken.

Respectfully,

Acting Commissioner

Muskogee, Indian Territory, December 27, 1905.

Preslie B. Cole,

South McAlester, Indian Territory,

Dear Sir:

Receipt is hereby acknowledged of your letter of December 21, 1905, asking for a copy of the testimony in the matter of the application of Morris Battiest for enrollment as a citizen by blood of the Choctaw Nation.

In reply to your letter you are advised that the application for the enrollment of Morris Battiest as a citizen by blood of the Choctaw Nation is now receiving consideration but no decision has as yet been reached.

You are further advised that there is not a sufficient number of copies of the testimony in this case to permit the withdrawal of one copy from the files. If you will designate some reputable stenographer or Notary Public whom you desire to make a copy thereof, he will be permitted access to the files of this office for that purpose.

Respectfully,

Commissioner.

100 - 302

Muskogee, Indian Territory, July 10, 1906.

Mansfield, McMurray & Cornish,

Attorneys for Choctaw and Chickasaw Nations,

South McAlester, Indian Territory,

Gentlemen:

Your attention is invited to the following provision of the Act of Congress approved June 21, 1906, (Public No. 258):

"That the Commissioner to the Five Civilized Tribes is hereby authorized to add the names of the following persons to the final roll of the citizens by blood of the Choctaw tribe: Morris Battiest. Provided, That the enrollment of said persons by the Commissioner to the Five Civilized Tribes shall not be objected to by the said tribes, and shall be approved by the Secretary of the Interior."

You will be allowed fifteen days from the date of this notice within which to protest to the enrollment of Morris Battiest as a citizen by blood of the Choctaw Nation. If at the expiration of that time no protest has been filed, the name of this person will be placed upon a schedule of citizens by blood of the Choctaw Nation to be prepared for forwarding to the Secretary of the Interior.

Respectfully,

Commissioner.

7-6013

Muskogee, Indian Territory, July 26, 1906.

Preslie B. Cole,

Attorney at Law,

South McAlester, Indian Territory.

Dear Sir:

Receipt is hereby acknowledged of petition filed by you for the enrollment of Morris Battiest as a citizen by blood of the Choctaw Nation under the Act of Congress approved June 21, 1906.

You are advised that on July 10, 1906, notice was addressed to Mansfield, McMurray and Cornish, attorneys for the Choctaw and Chickasaw Nations, allowing them fifteen days from that date in which to protest to the enrollment of Morris Battiest and advising them if at the expiration of that time no protest was filed this person would be placed upon a schedule of citizens by blood of the Choctaw Nation to be prepared for forwarding to the Secretary of the Interior. You are advised that up to this time no such protest has been filed.

Respectfully,

Commissioner.

7-D-302

Muskogee, Indian Territory, July 26, 1906.

Chief Clerk,

Chectaw Land Office,

Atoka, Indian Territory.

Dear Sir:-

You are hereby advised that the name of Morris Battiest has been transferred from Chectaw Card D-302 to Chectaw Card 6012. Chectaw Card 6012 will be forwarded you with the next schedule of citizens by blood of the Chectaw Nation for the purpose of making the records of your office conform with those of the General Office.

Respectfully,

VLM

Commissioner.

7-D-302

Muskogee, Indian Territory, July 24, 1906.

Chief Clerk,
Chickasaw Land Office,
Ardmore, Indian Territory.

Dear Sir:

You are hereby advised that the name of Morris Battiest has been transferred from Choctaw Card D-302 to Choctaw Card 6012. Choctaw Card 6012 will be forwarded you with the next schedule of citizens by blood of the Choctaw Nation for the purpose of making the records of your office conform with those of the General Office.

Respectfully,

Commissioner.

7-4012

Muskogee, Indian Territory, August 31, 1906.

Preslie B. Cole,
Attorney at Law,
McAlester, Indian Territory.

Dear Sir:

Receipt is hereby acknowledged of your letter of August 25, 1906, in which you ask if the enrollment of Morris Battiest has been approved by the Secretary of the Interior.

In reply to your letter you are advised that the name of Morris Battiest has been placed upon a schedule of minor citizens of the Choctaw Nation under the Act of Congress approved April 26, 1906, which has been forwarded the Secretary of the Interior, but this office has not yet been notified of Departmental action thereon.

Respectfully,

Acting Commissioner.

7-6012

Muskogee, Indian Territory, September 4, 1906.

Preslie B. Cole,
Attorney at Law,
McAlester, Indian Territory.

Dear Sir:

Receipt is hereby acknowledged of your letter of August 25, 1906, in which you ask if the enrollment of Morris Battiest has been approved by the Secretary of the Interior.

In reply to your letter you are advised that the enrollment of Morris Battiest, as a citizen by blood of the Choctaw Nation, was approved by the Secretary of the Interior August 22, 1906.

Respectfully,

Acting Commissioner.

REFER IN REPLY TO THE FOLLOWING:

7-6012

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, September 6, 1906.

Morris Battiest,

Hartshorne, Indian Territory.

Dear Sir:

You are hereby advised that on August 22, 1906, the Secretary of the Interior approved your enrollment as a citizen by blood of the Choctaw Nation, and your name appears upon the final roll of such citizens opposite No. 16061.

You are now entitled to an allotment and application therefor should be made without delay at the Land Office for the Nation in which the prospective allotment is located.

Respectfully,

W. O. Beall

Acting Commissioner.

W C

MEMORANDA.

Hartsome

(Date)

Aug 1899.

14 Name Morris Battiest

Choctaw? yes County Year No.

Chickasaw? County Year Page

Citizen by blood? yes Mother's citizenship Cho

Intermarried citizen?

Married under what law?

License filed this day,

Wife's name,

Choctaw? County Year No.

Chickasaw? County Year Page

Citizen by blood? Mother's citizenship

Intermarried citizen?

Married under what law?

License filed this day

Names of children:

County	Year	Page	No.
County	Year	Page	No.
County	Year	Page	No.
County	Year	Page	No.
County	Year	Page	No.
County	Year	Page	No.
County	Year	Page	No.
County	Year	Page	No.
County	Year	Page	No.
County	Year	Page	No.

mother's name: Mary Taklotabee

D 302

and without charge, receives the addressee's acknowledgment, and when delivered through a post office of a foreign country, if the words "Receipt Demanded" be indorsed on the address side of the letter or parcel.

U. S. P.

class postage prepaid. Post

Muskogee, I.T., Feb.

Received of the Commissioner to the Five Civil
of the testimony in the Choctaw enrollment case
7-D-302.

[Handwritten signature]

Choc 6013

John McDonald

Record trans from Choc D-249

July 27, 1906.

6013

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment as a
citizen by blood of the Choctaw Nation of.....

JOHN McDONALD.....7-D-249.

Choctaw D-343

Muskogee, Indian Territory, February 28, 1903.

John McDonald,

Spiro, Indian Territory,

You are hereby notified that the application for enrollment of yourself and your sister, Agnes James, as citizens of the Choctaw Nation will be taken up by the Commission to the Five Civilized Tribes for final consideration at its office in Muskogee, Indian Territory, on the 7th day of April, 1903.

On said date, you may, if you desire, appear before the Commission in person or by attorney, when an opportunity will be given you to introduce any additional testimony affecting said application.

You are further notified that the Representatives of the Choctaw Nation will also at the same time be afforded an opportunity to introduce testimony affecting your right to enrollment, but said Representatives will be required to notify you of their intention to introduce such testimony before they will be permitted to do so.

The Commission to the Five Civilized Tribes.

T. B. Needles.

Commissioner in Charge.

Register.

Department of the Interior.
Commission to the Five Civilized Tribes.

In the matter of the application of
John McDonald and Agnes James for
enrollment as citizens by blood of
the Choctaw Nation.

---D 249---

On the 28th day of February, 1902, the principal applicant was notified by registered mail, and on the 6th day of March, 1902, the attorneys for the Choctaw and Chickasaw Nations were notified by registered mail that the application of John McDonald and Agnes James for enrollment as citizens of the Choctaw Nation would be taken up by the Commission to the Five Civilized Tribes at its office in Muskogee, Indian Territory, on the 7th day of April, 1902, for final consideration.

Now, on this 7th day of April, 1902, this cause coming on to be heard pursuant to said notice, the applicants being called failed to appear and the Choctaw Nation appeared by its attorneys, Mansfield, McMurray & Cornish and submitted this case upon the record.

-----000-----

Harry C Risteen, being first duly sworn, upon his oath states
That as stenographer to the Commission to the Five Civilized Tribes
he reported in full all proceedings had in the above entitled cause
on the 7th day of April, 1902, and that the above and foregoing is a
full, true and correct transcript of his stenographic notes of said
proceedings on said date.

Harry C Risteen

Subscribed and sworn to before me this 10th day of April, 1902.

Wm. Mansfield

Notary Public.

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES.
MUSKOGEE, INDIAN TERRITORY, OCTOBER 3, 1904.

In the matter of the application of John McDonald as a citizen by blood of the Choctaw Nation.

John McDonald, having been first duly sworn, upon his oath testified as follows:

Examination by the Commission.

- Q What is your name? A John McDonald.
Q How old are you? A I am about 23 years old.
Q What is your post office address? A Rowland, Indian Territory.
Q Is that in the Choctaw Nation? A No sir it is in the Cherokee nation.
Q What is your father's name? A John McDonald.
Q What is your mother's name? A Sina Thom.
Q What was your father? A He was a Cherokee Nation freedman.
Q What was your mother? A She was a Choctaw.
Q How much Choctaw? A I could not tell; I was small when she died.
Q Is your father living? A Yes sir.
Q Is he living in the Cherokee Nation? A Yes sir.
Q When did your mother die? A She has been dead about 17 years; I was small when she died.
Q Was your mother part freedman? A Yes sir, not very much freedman.
Q Was she a half blood? A Yes sir, I guess about a half blood.
Q Half nigger and half Indian wasn't she? A Yes sir.
Q Have you any brothers and sisters? A I've a brother named Dennis James.
Q Have you a sister? A Yes sir, her name is Agnes James.
Q Where were you born? A I was born in the Choctaw Nation.
Q Where abouts? A I was born in Shalleville County.

Q How old were you when you left the Choctaw Nation? A I was about 8 years old; I was just small then.
 Q Then you went to the Cherokee nation? A Yes sir.
 Q Have you lived there ever since? A No sir I went back.
 Q When did you go back? A I went back there in '92.
 Q When did you go back to the Cherokee Nation? I went back to the Cherokee Nation two years ago.
 Q Did you ever draw any money in the Choctaw Nation?
 A No sir I never did draw any money in the Choctaw nation.
 Q Were you ever enrolled by the Choctaw authorities? A Yes sir.
 Q In what year were you enrolled? A '96
 Q Under what name? A I was enrolled as John McDonald.
 Q Did you ever draw any money in the Cherokee Nation?
 A Yes sir.
 Q Your father drew it for you? A. Yes sir.
 Q How much? A Fifteen dollars and fifty cents.
 Q Whereabouts? A At Bragg Station.
 Q You applied as a Cherokee freedman? A Yes sir, my father applied for me.

The name of the applicant, as John Jr., along with his father John McDonald are identified on the Cherokee freedmen card, field number 993.

Q You and your father were refused as Cherokee freedmen were you not? A Yes sir.

From the Census Card record in this case, it appears that the applicant is found in Cherokee Wallace Roll, Sequoyah District, number 2641.

Dennis James is identified as the father of Elize James, Melinda James and Eve James, Choctaw card number 2526 and whose names have been placed on the final roll. Agnes James, the sister of the applicant, is identified on Choctaw field card number 4802.

Q You haven't the same father as Dennis James and Agnes James?
 A No sir, he was a Choctaw.
 Q William James the father of Dennis and Agnes James was a Choctaw freedman was he? A Yes sir, he lived in Skullyville County.
 Q Is Agnes younger than you are? A Yes sir.
 Q And is Dennis older than you are? A Yes sir.
 Q How did you come in between them then? A They were divorced and married again over.
 Q You say you didn't draw any money in '93? A No sir on account of my father, he was administrator and I was under age.
 Q That wouldn't stop him from drawing the money because he was administrator. A If the money was appropriated I haven't never got it. I guess it was appropriated for me but I never got it.

7-D-249.-----3

Q Are you living with your father? A Yes sir.
Q Have you any witnesses present with you? A No sir.
Q Was your mother ever married? A Yes sir that is
what they tell me.

Mattie V. Vaughn, being first duly sworn, upon her oath states: That as stenographer to the Commission to the Five Civilized Tribes she reported in full all the proceedings had in the above entitled cause on the 3rd day of October 1904, and that the above and foregoing is a full, true and correct transcript of her stenographic notes of said proceedings on said date.

Mattie V. Vaughn

Subscribed and sworn to before me this 3rd day of
October 1904.

Charles H. Sawyer
Notary Public.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED

JUL 1 1904



CHAIRMAN.

7D 249

Affidavit.

Morris Battice being by me first duly sworn, says he is acquainted with John McDonald and has known him all his life that the said McDonald is 23 years old and is the son of Sine Toms a Choctaw Indian woman by blood, ^{who} ~~and~~ is the mother of John McDonald by John J. McDonald and is a Choctaw Indian by blood.

Subscribed and sworn to before me this the 28 day of October 1904

Morris Battice
A. B. Schuck
notary public.

My commission expires on the 28 day of August 1907

Affidavit

We S. J. Williams, and _____, and _____, on our oath state that we are well acquainted with John McDonald and know him to be the son of Sine Toms, a Choctaw Indian woman by blood, by John McDonald, and that he is a brother of Ennis James and Aggie James who are both Choctaw Indians by blood and duly enrolled as such.

S. J. Williams

Isaac Morris

Subscribed and sworn to before me this the 28 day of Oct. 1904

A. B. Schuck
notary public.

My commission expires on the 28 day of August 1907.

DEPARTMENT OF THE ARMY
COMMISSION

P. 1

NOV 11 1904

IRMAN.

7D 249

NOV 1: Ans'd

Indian Territory
Northern District

Personally appeared before me a
Notary Public, for the Northern District Indian
John McDonald who being duly sworn
says, that, my father's name is John McDonald,
a freedman who lives near Beng. D.D. and my mother
name is Sima Tom, a Choctaw by blood,
and was married at one time in the Choctaw
Nation, and died about seventeen years ago
in near Schellyville Choctaw Nation, my
brother name is Earnie James, who died
1898, near Schellyville and left three children
who are married in the Choctaw Nation,
my sister name is Agnes ^{James}, who lives now
at So McAlester LT, she is also married in
the Choctaw Nation, I am 23 years old,
and my Post Office address is Roland ^{Ind. T.}
John H. & Leonard

Subscribed and sworn to before me this 9th
day of Nov. 1904

J. A. Berrin
Notary Public
My Comm. expires July 15, 1905

7-D-249.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of John McDonald as a citizen by blood of the Choctaw Nation.

D E C I S I O N.

It appears from the census card record in this case that on June 15, 1899, application was made to the Commission to the Five Civilized Tribes for the enrollment of John McDonald as a citizen by blood of the Choctaw Nation. Additional proceedings were had in the matter of said application at Muskogee, Indian Territory, on October 3, 1904.

The evidence in this case shows that John McDonald is a Choctaw by blood; that he was born in about the year 1881, and is the son of John McDonald, a non-citizen, and Sina Thom (now deceased), a recognized and enrolled citizen by blood of the Choctaw Nation, who is identified upon the 1885 Choctaw Census Roll, Skullyville County, number 514.

Upon an examination of the tribal rolls of the Choctaw Nation in the possession of this office, it appears that the applicant, John McDonald, is identified upon the 1885 Choctaw Census Roll, Skullyville County, number 515.

It further appears from the record herein that said applicant was a resident in good faith of Indian Territory on June 26, 1898.

It further appears from the records of the Commission to the Five Civilized Tribes that on July 1, 1901, application was made to the Commission to the Five Civilized Tribes for the enrollment of the applicant, John McDonald as a Cherokee freedman; that on July 10, 1903, said Commission rendered its decision therein, denying said application; and that thereafter on March 23, 1906, said decision was affirmed by the Department.

I am, therefore, of the opinion that John McDonald should be enrolled as a citizen by blood of the Choctaw Nation, under the provisions of the Acts of Congress approved June 28, 1898 (30 Stats., 495) and July 1, 1902 (32 Stats., 641), and it is so ordered.



Commissioner.

Muskogee, Indian Territory,

JUL 12 1906

COPY.

Muskogee, Indian Territory, July 12, 1906.

John McDonald,

Roland, Indian Territory.

Dear Sir:

Inclosed herewith you will find a copy of the decision of the Commissioner to the Five Civilized Tribes, rendered July 12, 1906, granting your application for enrollment as a citizen by blood of the Choctaw Nation.

The attorneys for the Choctaw and Chickasaw Nations have been furnished a copy of the decision and have been allowed fifteen days from the date of this notice within which to file protest against your enrollment. If at the expiration of that time no protest has been filed, your name will be placed upon the final roll of citizens by blood of the Choctaw Nation to be submitted to the Secretary of the Interior for his approval.

Respectfully,

SIGNED *Jame Dixby*

Commissioner.

Registered.

Incl. 7-D-249.

Muskogee, Indian Territory, July 12, 1906.

206

Neal & London,
Attorneys at Law,
Port Smith, Arkansas.

Gentlemen:

You are hereby notified that the Commissioner to the Five Civilized Tribes, on July 12, 1906, rendered his decision granting the application for the enrollment of John McDonald as a citizen by blood of the Choctaw Nation.

The attorneys for the Choctaw and Chickasaw Nation have been furnished a copy of said decision and have been allowed fifteen days from the date of this notice within which to file protest against the enrollment of the above named applicant. If at the expiration of that time no protest has been filed, his name will be placed upon the final roll of citizens by blood of the Choctaw Nation to be submitted to the Secretary of the Interior for his approval.

Respectfully,
SIGNED

Tam S. S. S.
Commissioner.

Registered.

7-D-249.

Muskogee, Indian Territory, July 12, 1906.

COPY.

Mansfield, McMurray & Cornish,
Attorneys for Choctaw and Chickasaw Nations,
South McAlester, Indian Territory.

Gentlemen:

Enclosed herewith you will find a copy of the decision of the Commissioner to the Five Civilized Tribes, rendered July 12, 1906, granting the application for the enrollment of John McDonald as a citizen by blood of the Choctaw Nation.

You are hereby advised that you will be allowed fifteen days from the date of this notice within which to file protest against the enrollment of this applicant. If at the expiration of that time no protest has been filed, his name will be placed upon the final roll of citizens by blood of the Choctaw Nation to be submitted to the Secretary of the Interior for his approval.

Respectfully,

Jame B. Broy
Commissioner.

Registered.

Incl. 7-D-249.

Muskogee, Indian Territory, January 3, 1902.

Mary J. King,

Legal, Indian Territory.

Dear Madam:

Receipt is hereby acknowledged of your letter of December 19, 1901, in which you desire to be informed if John McDonald, is entitled to enrollment as a citizen of either the Choctaw or Chickasaw Nations.

Replying to your inquiry you are informed that it appears from our records that on June 15, 1899, John McDonald, 18 years of age, of Spiro, Indian Territory, made application to this Commission for enrollment as a citizen by blood of the Choctaw Nation.

The Commission has not passed upon the rights of this applicant to enrollment nor is his name found upon any of the tribal rolls of the Choctaw Nation in the possession of the Commission.

It appears however, that John McDonald was born in the Choctaw Nation but was taken to the Cherokee Nation by his father, Tom McDonald, when about ten years of age and remained there five years when he returned to the Choctaw Nation but has always been considered as a Choctaw Indian.

Pending the final disposition of the application for

Ms K 3

the enrollment of this man as a citizen of the Choctaw Nation, the
Commission can render you no opinion relative to his rights to
hold possession of any tract of land in the Choctaw-Chickasaw
country.

Yours truly,

Commissioner in Charge.

D-242

Muskegee, Indian Territory, November 22, 1902.

J. W. McDonald,

Wapanucka, Indian Territory.

Dear Sir:

Receipt is hereby acknowledged of your letter of the 8th instant, addressed to the Secretary of the Interior, Washington, D. C., and which has been by him referred to this Commission for consideration and appropriate action.

Therein you desire to be advised if a citizen can allot 320 acres of first class land in the Choctaw and Chickasaw Nations and also if parents can hold an allotment of a deceased child.

In reply to your letter your attention is invited to the following provision of the act of Congress approved July 1, 1902, entitled, "An Act to ratify and confirm an agreement with the Choctaw and Chickasaw tribes of Indians, and for other purposes," ratified by the citizens of the Choctaw and Chickasaw Nations on September 25, 1902:

"There shall be allotted to each member of the Choctaw and Chickasaw tribes, as soon as practicable after the approval by the Secretary of the Interior of his enrollment as herein provided, land equal in value to three hundred and twenty acres of the average allottable land of the Choctaw and Chickasaw nations."

You are further advised that the Choctaw-Chickasaw agreement above referred to, ratified September 25, 1902, closes the

J. B. McD. S.

rolls of the citizens of the Choctaw and Chickasaw Nations on that date and the rolls as now being prepared by this Commission will be as of September 25, 1902. Such agreement provides as follows:

"The names of all persons living on the date of the final ratification of this agreement entitled to be enrolled as provided in section 27 hereof shall be placed upon the rolls made by said Commission."

The allotment of the lands of the Choctaw and Chickasaw Nations will be made only to those citizens and freedmen whose names appear upon the final rolls as approved by the Secretary of the Interior.

Respectfully,

Acting Chairman.

Muskogee, Indian Territory, October 7, 1904.

Neal & London,

Attorneys at Law.

Fort Smith, Arkansas.

Gentlemen:-

Receipt is hereby acknowledged of your letter of the 5th instant, stating that you recently addressed a communication to the Commission requesting information relative to the enrollment of John McDonald as a Choctaw freedman; that since writing said letter you have ascertained that he is the son of Siney Battiest, and state that he was probably enrolled as a Choctaw by blood and you request information relative to the status of his application for enrollment.

You are informed it appears from our records that John McDonald, son of Tom and Siney McDonald, is an applicant to this Commission for enrollment as a citizen by blood of the Choctaw Nation.

You are further advised that the personal testimony of John McDonald in support of his original application for enrollment as a citizen by blood of the Choctaw Nation was taken before the Commission at its office at Muskogee, Indian Territory, October 3, 1904. His rights to enrollment, however, as a citizen by blood of

M. & L. 72

the Choctaw Nation have not yet been passed upon.

Respectfully,

Chairman.

92501

7-D-242

Muskogee, Indian Territory, October 11, 1904.

John McDonald,

Rowland, Indian Territory.

Dear Sir:-

Receipt is hereby acknowledged of the affidavits of Morris Battiest, S. P. J. Williams and Isaac Morris relative to the citizenship of your mother Siney McDonald, and the same have been duly filed with the records of the Commission in the matter of your application for enrollment as a citizen by blood of the Choctaw Nation.

Respectfully,

Chairman.

Chester D 249

Muskogee, Indian Territory, October 21, 1904.

John McDonald,

Moland, Indian Territory,

Dear Sir:

Receipt is hereby acknowledged of your letter of October 10, in which you state that you are the father of John McDonald and this information has been made a matter of record.

Respectfully,

Chairman.

7-P-249
7-4808

Muskogee, Indian Territory, November 28, 1904.

John McDonald,

Rowland, Indian Territory.

Dear Sir:

Receipt is hereby acknowledged of your letter of the 22nd instant, requesting information relative to the enrollment of yourself and your sister Agnes James.

You are advised that the Commission has not yet passed upon the applications for enrollment of John McDonald and Agnes James as citizens by blood of the Choctaw Nation. As soon as a decision is reached in the above cases due notice of the action taken therein will be forwarded to each of the applicants.

Respectfully,

Commissioner in Charge.

Muskogee, Indian Territory, January 14, 1905.

John McDonald,

Benge, Indian Territory.

Dear Sir:

Receipt is hereby acknowledged of your letter of October 1904, which was by the Commissioner of Indian Affairs referred to the Commission to the Five Civilized Tribes for consideration and appropriate action. Therein you request that your son John McDonald be permitted to relinquish his allotment in the Cherokee Nation and file on land in the Choctaw Nation, and that the filing for your son in the Cherokee Nation be transferred to you.

In reply to your letter you are informed that the application for the enrollment of yourself and your son John McDonald as Cherokee freedmen was refused by the Commission and this action was affirmed by the Secretary of the Interior. It is not therefore seen that your son John McDonald would have any right in the Cherokee Nation which he could relinquish.

You are informed, however, that the Commission has not yet passed upon the application of your son John McDonald for enrollment as a citizen by blood of the Choctaw Nation, but as

J. McD. 28

soon as a decision is reached in this case you will be notified
of the action taken therein.

Respectfully,

Chairman.

Muskogee, Indian Territory, January 14, 1905.

John McDonald,

Rowland, Indian Territory.

Dear Sir:

Receipt is hereby acknowledged of your letter of December 7, 1904, which was by the Commissioner of Indian Affairs referred to the Commission for consideration and appropriate action. You state therein that you are a Choctaw by blood and are not permitted to file on your land.

In reply to your letter you are advised that the Commission has not yet passed upon your application for enrollment as a citizen by blood of the Choctaw Nation, but as soon as a decision is reached in this case you will be notified of the action taken therein, and pending your enrollment by the Commission and approval thereof by the Secretary of the Interior, you would not be permitted to select allotment. If any other person however, has filed on land upon which you own improvements which you desire to select in allotment, you will be permitted to make application therefor upon your personal appearance at the land office for the Nation in which the land is situated, for the purpose of instituting contest proceedings.

Respectfully,

Chairman.

Muskogee, Indian Territory, February 25, 1905.

John McDonald,

Roland, Indian Territory.

Dear Sir:

Receipt is hereby acknowledged of your letter of February 19, 1905, asking if you are approved as a citizen of the Choctaw Nation.

In reply to your letter you are informed that the Commission has not yet passed upon your application for enrollment as a citizen by blood of the Choctaw Nation, but when a decision is reached in this case you will be notified of the action taken therein.

Respectfully,

Chairman.

7-D-249

Muskogee, Indian Territory, September 8, 1906.

John McDonald,

Roland, Indian Territory.

Dear Sir:

Replying to your letter of September 1st, you are informed that no action has as yet been taken by the Commissioner in reference to your right to enrollment as a citizen by blood of the Choctaw Nation.

Your application is now receiving consideration and it is probable that a decision will be rendered in the near future, when you will be advised of the action taken.

Respectfully,

Acting Commissioner

Choctaw D 248

Muskogee, Indian Territory, November 2, 1908.

John McDonald,

Reland, Indian Territory,

Dear Sir:

Your letter of October 20, addressed to the Secretary of the Interior, has been by him referred to this office for consideration and appropriate action. Therein you refer to your right to enrollment as a citizen of the Choctaw Nation.

In reply you are advised that no decision has yet been reached in the matter of your application for enrollment as a citizen by blood of the Choctaw nation, but as soon as the same is reached you will be notified of such action as is taken therein.

Respectfully,

Commissioner.

7-D-249

Muskogee, Indian Territory, January 22, 1906.

John McDonald,

Reland, Indian Territory.

Dear Sir:

Receipt is hereby acknowledged of your letter of January 11, 1906, in which you ask relative to your right to enrollment in the Choctaw Nation.

In reply to your letter you are advised that your application for enrollment as a citizen by blood of the Choctaw Nation has not yet been passed upon, but as soon as a decision is reached you will be notified of the action taken therein.

Respectfully,

Commissioner.

7-D-249

Muskogee, Indian Territory, March 9, 1906.

John McDonald,

Roland, Indian Territory.

Dear Sir:

Receipt is hereby acknowledged of your letter of February 22, 1906, in which you ask if you have been approved.

In reply to your letter you are advised that the application for your enrollment as a citizen by blood of the Choctaw Nation has not yet been determined but when a decision is reached you will be notified of the action taken therein.

You are further advised that your application for enrollment as a Cherokee freedman has been refused and this action approved by the Secretary of the Interior.

Respectfully,

Acting Commissioner.

7-D-249

Muskogee, Indian Territory, July 14, 1906.

John McDonald,

Roland, Indian Territory.

Dear Sir:-

Receipt is hereby acknowledged of your letter of June 23, 1906, relative to your right to enrollment as a citizen of the Choctaw Nation. Your letter of the same date addressed to the Secretary of the Interior upon the same subject has been by him referred to this office for consideration and appropriate action.

In reply you are advised that on July 12, 1906, a decision was rendered granting your application for enrollment as a citizen of the Choctaw Nation and a copy thereof was forwarded you on the same date.

Respectfully,

Commissioner.

7-6013

Muskogee, Indian Territory, August 17, 1906.

John McDonald,

Roland, Indian Territory.

Dear Sir:-

Receipt is hereby acknowledged of your two letters of July 25 and August 4, 1906, asking relative to your enrollment.

In reply you are advised that your name has been placed upon a schedule of citizens by blood of the Choctaw Nation which has been forwarded to the Secretary of the Interior, but this office has not yet been notified of Departmental action thereon. You will be advised when your enrollment has been approved by the Secretary of the Interior.

Respectfully,

Commissioner.

7-6013

Muskogee, Indian Territory, September 12, 1906.

John McDonald,

Roland, Indian Territory.

Dear Sir:

Your letter of August 28, 1906, addressed to the Secretary of the Interior has been by him referred to this office for consideration and appropriate action. Therein you ask if your enrollment has been approved.

In reply to your letter you are advised that on August 22, 1906, the Secretary of the Interior refused your enrollment as a citizen by blood of the Choctaw Nation.

Respectfully,

Commissioner.

J

Choc 6014

Mattie L. Armstrong

See Pet # C-63

Feb 25, 1909 Dept. requests report herein

March 12, 1909 Report to Dept.

March 25, 1909 Dept. refers to S.

Field for report and recommendation

May 4, 1909 Report to Dept

June 15, 1909 Dept restores applicants to roll

Record transferred from Choc #5108
July 24, 1906

Decision of July 9, 1906 affirmed
by Dept Aug 11, 1906

6014

Chickasaw Court Card C. 153.

IN RE application of W. G. Armstrong and others.

Sworn by Commissioner McKennon,

W. G. Armstrong says:

Rebecca K. was born May 20th 1898.

I have been residing in the Chickasaw Nation about two and one half years, with my family. I came from Oklahoma to the Territory. I came from Texas to Oklahoma.

Ardmore, Sept. 22 1898.

W. G. Armstrong,
Mattie L. Armstrong
Layton B. Armstrong
Bonnie D. Armstrong
Rebecca K. Armstrong

enrolled.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

---3---

I, Tams Dixby, Chairman of the Commission to the Five Civilized Tribes, do hereby certify that the names of Mollie L. Anderson, Benny D. Armstrong and Leta B. Armstrong appear upon the 1896 Cheateau census roll, opposite Nos. 561, 562 and 563, respectively.

In testimony whereof I have hereunto set my hand at Muskogee, Indian Territory, this 10th day of June, 1904.

SIGNED *Tams Dixby.*

Chairman.

NEW BORN

20

IN RE

Application for Enrollment of
INFANT CHILD

Rebecca King Armstrong
as a citizen of

CHOCTAW

Nation.

Approved

190

COMMISSIONER.

Born May 20, 1898

ACT OF CONGRESS APPROVED APRIL 26, 1908.

DEPARTMENT OF THE INTERIOR

COMMISSIONER OF THE BUREAU OF INDIAN AFFAIRS

JUN 1 - 1906

CHOCTAW

6014

RECEIVED

MAY 24 1906

4

DEPARTMENT OF THE INTERIOR

COMMISSION TO THE FIVE CIVILIZED TRIBES.

IN RE APPLICATION FOR ENROLLMENT, as a citizen of the Choctaw Nation.of Rebecca King Armstrong, born on the 20th day of May, 1898.
(Here insert name of child)Name of Father: William G. Armstrong a citizen of the Choctaw Nation.Name of Mother: Mattie Lee Armstrong a citizen of the Choctaw Nation.Postoffice Chickasha Indian Territory

AFFIDAVIT OF MOTHER

UNITED STATES OF AMERICA, INDIAN TERRITORY,
Southern District.)

I, Mattie Lee Armstrong, on oath state that I am 41 years of age and a citizen, by Blood, of the Choctaw Nation; that I am the lawful wife of William G. Armstrong, who is a citizen, by Inter Marriage, of the Choctaw Nation; that a Female child was (Male or Female.) born to me on 20th day of May, 1898; that said child has been named

Rebecca King Armstrong, and is now living.

WITNESSES TO MARK.

*Mattie Lee Armstrong*Must be two
Witnesses.Subscribed and sworn to before me this 23rd day of May, 1906*B. B. Bayart*

Notary Public.

AFFIDAVIT OF ATTENDING PHYSICIAN, OR MID-WIFE.

UNITED STATES OF AMERICA, INDIAN TERRITORY,
Southern District.)

I, J. E. Stinson, a Physician, on oath state that I attended on Mrs. Mattie Lee Armstrong, wife of William G. Armstrong, on the 20th day of May, 1898; that there was born to her on said date a Female child; that said child is now living and is said to have been named Rebecca King Armstrong.

WITNESSES TO MARK:

*J. E. Stinson M.D.*Must be two
Witnesses.Subscribed and sworn to before me this 23rd day of May, 1906*B. B. Bayart*

Notary Public.

7-5108.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment
of Rebecca K. Armstrong as a citizen by blood of the Choctaw
Nation.

- - -oOo- - -

The applicant, Rebecca K. Armstrong, claims the
right to enrollment as a citizen by blood of the Choctaw
Nation through her mother Mattie L. Armstrong.

The right of the applicant's mother, Mattie L.
Armstrong (as Mattie Lee Armstrong), to citizenship in the
Choctaw Nation having been adversely determined by a decree of
the Choctaw and Chickasaw Citizenship Court of November 28,
1904 in case No. 59 upon the Tishomingo docket of said court,
it is hereby ordered that the application of Rebecca K.
Armstrong for enrollment as a citizen by blood of the Choctaw
Nation be dismissed.

COMMISSION TO THE FIVE CIVILIZED TRIBES,


Chairman.

Muskogee, Indian Territory,

JAN 19 1905

Ardmore, Indian Territory,

January 16, 1906.

The Commission to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:-

Your petitioners, William G. Armstrong, Mattie L. Armstrong, Bonnie D. Armstrong, Layton B. Armstrong and Rebecca K. Armstrong, state that they are members of the Choctaw Tribe of Indians. By an act of the Choctaw Council passed in November 1895, petitioners Mattie L, Bonnie D and Layton B. Armstrong were duly and lawfully adopted as members of the Choctaw Tribe of Indians. In 1896, petitioner William G. Armstrong was duly enrolled as a member of the said Choctaw Tribe of Indians by intermarriage by the Board of Census Commissioners for the Choctaw Nation, appointed in accordance with an act of the General Council of said Nation, passed in the year 1896. Petitioner, Rebecca K. Armstrong, on the 20th day of May was born, as a child of William G and Mattie L. Armstrong.

Wherefore your petitioners pray that they may be enrolled as members of the Choctaw Tribe of Indians.

Cruce, Cruce & Bleakmore,
Attorneys for Petitioners.

I, William G. Armstrong, state upon oath that the foregoing statements are true.

William G. Armstrong.

Subscribed and sworn to before me this the 22day of January,
1906.

(SEAL)

E. B. Barefoot,
Notary Public.

Registry receipt attached.

Indorsed on back as follows: W. G. Armstrong, et al.
Application for Choctaw Citizenship.

Department of the Interior,
Commission to the Five Civilized Tribes.

F I L I E D

Feb 4-1906.

Sam. Dixey, Commissioner.

Department of the Interior,
Commissioner to the Five Civilized Tribes.
Muskogee, Indian Territory, June 4, 1906.

In the matter of the application for the enrollment of
William G. Armstrong, et al., as citizens of the Choctaw Nation.

It appears from the records of the Commission to the Five Civilized Tribes that on September 7, 1896, application was made to said Commission under the provisions of the Act of Congress approved June 10, 1896 (29 Stats., 321), for admission to citizenship in the Choctaw Nation of William G. Armstrong as a citizen by intermarriage, and Mattie Lee Armstrong, Layton Buford Armstrong and Bonny Durant Armstrong as citizens by blood thereof; that on December 2, 1896, said Commission rendered its decision therein, denying said application of William G. Armstrong as a citizen by intermarriage and Mattie Lee Armstrong, Layton Buford Armstrong and Bonny Durant Armstrong as citizens by blood of the Choctaw Nation, from which decision an appeal was taken to the United States Court for the Southern District of the Indian Territory; that on December 21, 1897, said court in the case entitled "Mattie Lee Armstrong, et al., vs. Choctaw Nation", rendered its decision therein admitting said applicants as citizens of the Choctaw Nation.

On December 17, 1902, the Choctaw and Chickasaw Citizenship Court, created under the provisions of the Act of Congress approved July 1, 1902 (32 Stats., 641), "set aside, annulled, vacated and held for naught" the aforesaid judgment of the United States Court for the Southern District of Indian Territory.

There after said cause was certified to the Choctaw and Chickasaw Citizenship Court for a trial de novo, and on November 28, 1904, said court in the case entitled "Mattie Lee Armstrong, et al., vs. Choctaw and Chickasaw Nations" (Choctaw-Chickasaw Citizenship Court Case No. 59, Tishomingo Docket), "ordered, adjudged and decreed that the petition of the plaintiffs, Mattie Lee Armstrong, Layton Buford Armstrong (or Layton Buford Armstrong), and Bonnie Durant Armstrong (or Bonnie Durant Armstrong), be denied, and that they be declared not citizens of the Choctaw Nation, and not entitled to enrollment as such citizens, and not entitled to any rights whatever flowing therefrom."

On January 19, 1905, the Commission to the Five Civilized Tribes dismissed the application for the enrollment of Rebecca K. Armstrong as a citizen by blood of the Choctaw Nation, by reason of the fact that the applicant's mother, Mattie L. Armstrong, had been denied citizenship in the Choctaw Nation by a decree of the Choctaw and Chickasaw Citizenship Court of November 28, 1904.

Under the regulations adopted by the Commissioner to the Five Civilized Tribes of January 2, 1906, there was filed on February 6, 1906, by Cruise, Cruise and Bleakmore, attorneys at law, of Ardmore, Indian Territory, a petition verified by William G. Armstrong, praying that William G. Armstrong, Mattie L. Armstrong, Bonnie D. Armstrong, Layton B. Armstrong and Rebecca K. Armstrong be enrolled as members of the Choctaw tribe of Indians.

On May 14, 1906, the applicants, their attorneys of record, and Mansfield, McMurray & Cornish, attorneys for the Choctaw and Chickasaw Nations, were advised that the Commissioner to the Five Civilized Tribes would at his office at Muskogee, Indian Territory on Monday, June 4, 1906, at nine o'clock A. M., hear such testimony and receive such other evidence as may be submitted in reference to the right to enrollment of W. G. Armstrong, his wife and children, as citizens of the Choctaw Nation.

Now, on this the 4th day of June, 1906, the following proceedings were had and appearances entered:

W. G. Armstrong, the applicant.
W. R. Bleakmore, on behalf of Cruce, Cruce & Bleakmore, of Ardmore, Indian Territory.
G. Rosenwinkel, representing Mansfield, McMurray & Cornish of South McAlester, Indian Territory, attorneys for the Choctaw and Chickasaw Nations.

By the Commissioner:

Now, Mr. Bleakmore, before we go into the details of this case, I would like to ask you if it is the intention of the attorneys for the applicant to ask any questions or touch upon and point showing any action in the matter of the enrollment of W. G. Armstrong as a citizen by intermarriage of the Choctaw Nation?

By Mr. Bleakmore:

It is our contention that in as much as the applicant, W. G. Armstrong, was enrolled as a citizen by intermarriage of the Choctaw Nation upon the census roll of 1896, it is the duty of the Commissioner to enroll him, and of the Secretary of the Interior to approve his enrollment.

By the Commissioner:

On what theory?

By Mr. Bleakmore:

Upon that one theory.

By the Commissioner:

Simply his tribal enrollment. It is not claimed or insisted that Mr. Armstrong was ever married to Mattie Lee Armstrong in accordance with the Choctaw customs and laws, or admitted to citizenship in the Choctaw Nation by any citizenship Committee?

By Mr. Bleakmore:

It is not contended that W. G. Armstrong was ever married under the laws of the tribe; we do contend that he was admitted to citizenship by the committee, and his name enrolled upon the census roll of 1896.

By the Commissioner:

In the original petition that was filed with this office in this case by Messrs. Potter and Potter of Gainesville, Texas, it was stated as follows:

"I don't see any authority in the world for admitting Mr. Armstrong, either in the evidence or in the law, and I shall only insist upon the enrollment of Mattie Lee Armstrong and her two children, and shall base their right upon the Act of the Choctaw Council, a certified copy of which I now offer in evidence".

I expect under the circumstances that Mr. Armstrong does not claim that he was admitted to citizenship in the Choctaw Nation under the tribal laws other than having his name enrolled upon the 1896 census roll, we will have to dispense with his interest in this case.

By Mr. Bleakmore:

The applicant, W. G. Armstrong, insists that he was admitted as an intermarried citizen of the Choctaw Nation by the Revisory Board of the Census Committee, and his name was enrolled upon the Census Roll of 1896, Chickasaw District, No. 14272.

W. G. Armstrong, being first duly sworn, testified as follows:

Examination by Mr. Bleakmore:

Q You may state your name, age and residence? A W. G. Armstrong--

By Mr. Rosenwinkel:

The nations object to any proceedings in this case, and state that the petitioners herein have been finally denied citizenship by the Choctaw and Chickasaw Citizenship Court, acting under the provisions of the Act of Congress approved July 1, 1902, and that, therefore, the Secretary of the Interior is now without jurisdiction to inquire into their citizenship rights.

By Mr. Bleakmore:

Q Are you the W. G. Armstrong whose name appears upon the petition which was filed with the Commissioner to the Five Civilized Tribes on the 6th day of February, 1906? A Yes sir.

Q You may state who Mattie L. Armstrong, Bonnie D. Armstrong, Layton B. Armstrong and Rebecca K. Armstrong are? A Mattie L. Armstrong is my wife, the others are our children.

Q You may state, Mr. Armstrong, whether or not they are all living at this time? A All living.

Q You may state where they live? A They live at Chickasaw, Indian Territory.

Q Is the Chickasaw Nation, Indian Territory? A Yes sir.

- Q Are you the same William G. Armstrong, who in 1898 made application for enrollment as a citizen by intermarriage of the Choctaw Nation?
A Yes sir.
Q And are the other petitioners your wife and children who made application for enrollment at that time? A Yes sir.
Q You may state where you have lived continuously since the year 1898?
A Chickasha, I. T.
Q You may state how long you have lived in the Indian Territory, you and your wife and children, Mr. Armstrong? A Ten years.
Q You moved to the Territory in 1894, did you? A In the early part of 1895, I think it was.
Q And have resided therein continuously ever since? A Yes sir.

By the Commissioner:

- Q When were you married to Mattie L. Armstrong? A Married in 1895.
Q Under the laws of the State of Texas? A Yes sir.
Q Never married under a Choctaw license? A No sir.
Q How long had you known your wife before you married her? A I had known her about, I suppose, a year.
Q Were you acquainted with her parents? A I knew her mother and father, yes.
Q What was her father's name? A William H. Cundiff.
Q What was he? A He was a white man.
Q What was the name of your wife's mother? A Nancy L. Cundiff.
Q How long had you known them before you married your wife?
A Just a little after I met my wife before I met her mother.
Q What was Nancy L. Cundiff? A She was an Indian.
Q From where do you get your information? A Well, that is the best of my knowledge and belief.
Q You have no other information only what some one has told you?
A No sir.
Q And you had only known Mattie Lee Cundiff about a year before you married her? A Yes sir.
Q Where was she residing? A Resided in Texas.
Q What county? A I think partly in Wise County and partly in Houston County.
Q Have you any personal knowledge relative to the ancestry of your wife, Mattie L. Armstrong? A No personal knowledge, no sir.
Q You can give no testimony then relative to the ancestors of your wife, Mattie Lee Armstrong? A No sir.

By Mr. Rosenwinkel:

- Q Mr. Armstrong, you state that you heard your wife's mother, Nancy L. Cundiff, was an Indian? A Yes sir.

By Mr. Bleakmore:

Just a moment, Mr. Armstrong. The petitioner objects to the introduction of any testimony with reference to the ancestors of the applicants, because their status is determined by the act of the Council of the Choctaw Nation, referred to in the testimony and the record of the Commission in this case.

By Mr. Rosenwinkel:

By the letter of the Commissioner directing this hearing, it is stated specifically that the case is to be adjudicated upon the merits without any reference to previous proceedings.

- Q You stated, I believe you did say a minute ago in response to my question, that you heard Nancy L. Cundiff was an Indian? A Yes sir.
- Q Haven't you also heard that she was not an Indian? A I never heard any one but what admitted she was an Indian.
- Q You never heard she wasn't an Indian?

By Mr. Bleakmore:

I object to that as immaterial and incompetent.

By the Commissioner:

Objection noted. Witness may answer the question.

A No sir.

By Mr. Rosenwinkel:

- Q Were you present in the Choctaw and Chickasaw Citizenship Court when testimony was taken in your wife's case in the case of P. B. Durant, et al., relatives of your wife? A No sir.
- Q What time in '98 did you come to the Choctaw and Chickasaw country? A I came before '98.
- Q Were you living here on June 28, 1898? A Yes sir.
- Q All that you know about your wife's family history and relationship is what she has told you, and members of her family? A And what others have told me.

By Mr. Bleakmore:

The applicant desires to know whether a copy of the Act of the General Council of the Choctaw Nation which was filed with the application of these petitioners will be considered without being re-introduced at this hearing.

By the Commissioner:

If the act has been filed with this office, then the application for the enrollment of these parties will be considered.

By Mr. Rosenwinkel:

We would like to introduce all the testimony taken before the Choctaw and Chickasaw Citizenship Court in the case of Mattie Lee Armstrong, and also in the case of P. B. Durant, et al., all of the testimony and documentary evidence introduced in court in these two cases.

By Mr. Bleakmore:

To the introduction of which the applicants herein object as incompetent and wholly irrelevant to the issues in this case.

By the Commissioner:

Mr. Bleakmore, is this all the testimony you desire to introduce in the matter of the application of these parties?

By Mr. Bleakmore:

That is all.

By the Commissioner:

The case will then be closed.

Lenora B. Ashton, as stenographer to the Commissioner to the Five Civilized Tribes, on oath states that she reported the proceedings had in the above entitled cause on the 4th day of June, 1906, and that the above and foregoing transcript is a true and complete translation of her stenographic notes.

Subscribed and sworn to before me this the 5th day of June, 1906.

Lenora B. Ashton

Walter H. Chappell
Notary Public.

7-5103.
O.L.J.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of
W. G. Armstrong, et al., as citizens of the Choctaw Nation.

D E C I S I O N.

It appears from the census card record in this case that on September 22, 1898, application was made to the Commission to the Five Civilized Tribes for the enrollment of W. G. Armstrong as a citizen by intermarriage of the Choctaw Nation, and for the enrollment of Mattie L. Armstrong, Layton B. Armstrong, Bonnie D. Armstrong, and Rebecca K. Armstrong as citizens by blood of the Choctaw Nation.

It appears from the records of the Commission to the Five Civilized Tribes that on September 7, 1896, in the case entitled "W. G. Armstrong, et al., vs. Choctaw Nation" (1896 Choctaw Citizenship Docket, Case Nos. 477 and 478), application was made to said Commission, under the provisions of the Act of Congress approved June 10, 1896 (29 Stats., 321), for admission to citizenship in the Choctaw Nation of W. G. Armstrong as a citizen by intermarriage of the Choctaw Nation, and for the admission of Mattie L. Armstrong (as Mattie Lee Armstrong), Layton B. Armstrong (as Layton Buford Armstrong), and Bonnie D. Armstrong (as Bonny Durant Armstrong), as citizens by blood of said nation; and that on December 2, 1896, said Commission rendered its decision therein, denying said application. From this decision of said Commission an appeal was taken to the United States Court for the Southern District of Indian Territory, which court, in the case entitled "Mattie Lee Armstrong, et al., vs. Choctaw Nation", reversed the decision of said Commission, and admitted William G. Armstrong (as W. G. Armstrong) as a citizen by intermarriage of the Choctaw Nation, and Mattie Lee Armstrong, Layton Buford Armstrong, and Bonnie Durant Armstrong as citizens by blood of said nation.

It further appears from the records in the possession of this office that on December 17, 1902, the Choctaw and Chickasaw Citizenship Court, created under the provisions of the Act of Congress approved July 1, 1902 (32 Stats., 841), "set aside, annulled, vacated and held for naught" the aforesaid judgment of the United States Court for the Southern District of Indian Territory.

Thereafter, said cause was certified to the Choctaw and Chickasaw Citizenship Court for a trial de novo, and on November 28, 1904, said court in the case entitled "Mattie Lee Armstrong, et al., vs. Choctaw and Chickasaw Nations" (Choctaw-Chickasaw Citizenship Court Case, No. 89, Tishomingo Docket), "ordered, adjudged and decreed that the petition of the plaintiffs, Mattie Lee Armstrong, W. G. Armstrong, Layton Buford Armstrong (or Layton Buford Armstrong),

and Bonnie Durant Armstrong (or Bonnie Duran Armstrong), be denied, and that they be declared not citizens of the Choctaw Nation, and not entitled to be enrolled as such citizens, and not entitled to any rights whatever flowing therefrom".

On January 19, 1905, the Commission to the Five Civilized Tribes dismissed the application for the enrollment of Rebecca K. Armstrong as a citizen by blood of the Choctaw Nation for the reason that said applicant's mother, Mattie L. Armstrong, had been denied citizenship in the Choctaw Nation by a decree of the Choctaw and Chickasaw Citizenship Court of November 28, 1904.

Under the regulations adopted by the Commissioner to the Five Civilized Tribes of January 2, 1906, there was filed on February 6, 1906, by Cruce, Cruce & Bleakmore, attorneys at law, of Ardmore, Indian Territory, a petition verified by William G. Armstrong, praying that William G. Armstrong, Mattie L. Armstrong, Bonnie D. Armstrong, Layton B. Armstrong and Rebecca K. Armstrong be enrolled as members of the Choctaw tribe of Indians.

All of the above named petitioners are identical with the applicants for whom application was made to the Commission to the Five Civilized Tribes on September 22, 1898.

The Department on April 1, 1905 (I.T.D. 12958-1904, 2909-1905), requested this office to investigate and report as to the admission of the applicants herein by the Choctaw Council in November, 1895, and on April 17, 1905, a report was rendered in detail as to the status of said applicants.

The Department on May 2, 1906 (I.T.D. 2909, 5635-1906), after reviewing the report of the Commission to the Five Civilized Tribes of April 17, 1905, directed that the application for the enrollment of the applicants herein be adjudicated upon its merits.

On May 14, 1906, the applicants, their attorneys of record, and Mansfield, McMurray & Cornish, attorneys for the Choctaw and Chickasaw Nations, were advised that the Commissioner to the Five Civilized Tribes would, at his office at Muskogee, Indian Territory, on Monday, June 4, 1906, at nine o'clock A. M., hear such testimony and receive such other evidence as might be submitted in reference to the right to enrollment of W. G. Armstrong, his wife and children, as citizens of the Choctaw Nation.

On June 4, 1906, proceedings were had in the matter of said application in accordance with the notices above mentioned.

The evidence in this case shows that the applicants, Mattie L. Armstrong (as Mattie Lee Armstrong), Bonnie D. Armstrong (as Bonnie Durant Armstrong), and Layton B. Armstrong (as Layton Armstrong), were by an Act of the Choctaw National Council approved November 8, 1895, "admitted to all the rights and privileges of citizenship in the Choctaw Nation", and that said applicants were residents in good faith of Indian Territory on June 28, 1898.

The record in this case further shows that the applicant, W. G. Armstrong, was in 1885, married to the applicant, Mattie L. Armstrong, under the laws of the State of Texas; that at said time both persons above mentioned were residents in good faith of the State of Texas; and that said applicant, W. G. Armstrong, has never been remarried to Mattie L. Armstrong under a license issued by the tribal authorities of either the Choctaw or Chickasaw Nations.

Upon an examination of the tribal rolls of the Choctaw Nation in the possession of this office, it appears that Mattie L. Armstrong, Layton B. Armstrong, Bonnie D. Armstrong and W. C. Armstrong are identified upon the 1896 Choctaw Census Roll, Chickasaw District, opposite numbers 561, 562, 563 and 14272, respectively, the latter being enrolled thereon as a citizen by intermarriage of said nation. The applicant, Rebecca K. Armstrong, was born subsequent to the preparation of the 1896 Choctaw Census Roll.

I am, therefore, of the opinion that the order of the Commission to the Five Civilized Tribes of January 19, 1905, dismissing the application for the enrollment of Rebecca K. Armstrong as a citizen by blood of the Choctaw Nation, should be rescinded.

I am further of the opinion that in accordance with the opinions of the Assistant Attorney General for the Department of the Interior of February 10, 1905 (I.T.D. 10365-1904) and December 8, 1905 (I.T.D. 3693-1905), in the case of Lula West, that Mattie L. Armstrong, Layton B. Armstrong, Bonnie D. Armstrong and Rebecca K. Armstrong should be enrolled as citizens by blood of the Choctaw Nation, under the provisions of the Acts of Congress approved June 28, 1898 (30 Stats., 495) and July 1, 1902 (32 Stats., 641), and it is so ordered.

I am further of the opinion that the application made for the enrollment of W. C. Armstrong as a citizen by intermarriage of the Choctaw Nation should be denied, under the provisions of the Act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered.



Commissioner.

Muskogee, Indian Territory,

JUL 9 - 1906

7-3123

Muskogee, Indian Territory, June 18, 1904.

Potter & Potter,

Attorneys at Law,

Gainesville, Indian Territory.

Gentlemen:

Receipt is hereby acknowledged of your letter of June 4, 1904, in which you ask to be furnished with a certificate of the tribal enrollment of Mattie L. Armstrong and her children, Bonnie D. Armstrong and Layton B. Armstrong.

In compliance with your request a certificate showing the tribal enrollment of Mollie L. Anderson, (identified as Mattie L. Armstrong), Benny D. Armstrong and Laton B. Armstrong is enclosed you herewith.

Respectfully,

SIGNED *Tams Bixby.*

Chairman.

Choctaw 5108

COPY

Muskogee, Indian Territory, January 19, 1908.

Hattie L. Armstrong,

Chickasha, Indian Territory,

Dear Madam:

Inclosed herewith you will find a copy of the order of this Commission dated January 19, 1905, dismissing the application for the enrollment of your minor child, Rebecca K. Armstrong as a citizen by blood of the Choctaw Nation.

Respectfully,

RECORDED

Tame Bixby

Chairman.

Registered.

Incl. 7-5108.

Chester 8108

Copy

Muskogee, Indian Territory, January 19, 1905.

Potter & Potter,
Attorneys at Law,
Gainesville, Texas,

Gentlemen:

Inclosed herewith you will find a copy of the order of the Commission to the Five Civilized Tribes, dated January 19, 1905, dismissing the application for the enrollment of Rebecca K. Armstrong as a citizen by blood of the Cheatew Nation.

Respectfully,

~~INCLOSURE~~

Jams Bixby
Chairman.

Registered.

Incl. 7-8108.

Cheetaw 5108,

COPY.

Muskogee, Indian Territory, January 19, 1905.

Manfield, Mc Murray & Cornish,
Attorneys for Cheetaw and Chickasaw Nations,
South McAlester, Indian Territory.

Gentlemen:

Inclosed herewith you will find a copy of the order of
this Commission, dated January 19, 1905, dismissing the application
for the enrollment of Rebecca K. Armstrong for enrollment as a
citizen by blood, of the Cheetaw Nation.

Respectfully,

SIGNED

Tams Bixby

CHAIRMAN

Incl. 7-5108.

DEPARTMENT OF THE INTERIOR

WASHINGTON

J.W.H.

JHE

April 1, 1905.

D.C. 17552-1905.
I.T.D. 12958-1904.
2909-1905.
IRS.

Commission to the Five Civilized Tribes,
Muskogee, Indian Territory.

Gentlemen:

The Department is in receipt of a letter dated March 23, 1905, from W. G. Armstrong, of Chickasha, Indian Territory, concerning the application for the enrollment of himself, his wife, and children, as citizens of the Choctaw Nation. He states that in November of 1895 the Choctaw Nation admitted his wife and children to citizenship; that in December of 1896 the Daves Commission refused them enrollment; that the revisory board appointed by the Choctaw legislature in 1896 enrolled himself, his wife and children on the final rolls in October, 1896; that being refused enrollment by the Daves Commission he appealed to the United States Court in the Indian Territory, which upheld the Commission's judgment; that when the citizenship court was created he appealed to the court, and it denied his application.

Apparently, Mr. Armstrong was a party to the case of Mattie Lee Armstrong, et al, vs. the Choctaw and Chickasaw Nations, No. 59, decision in which was rendered adverse to the applicants.

November 28, 1904. If, as Mr. Armstrong alleges, his wife and children were admitted by the Choctaw Nation to its citizenship in November of 1895, and if he was married subsequent to that date according to the tribal law, the action of the Commission and of the United States Court, under the act of June 10, 1896, was taken without proper jurisdiction, and consequently without force or effect, inasmuch as, if the conditions indicated are found true, they were recognized citizens of said nation. See opinion of the Assistant Attorney General of February 10, 1905, approved by the Department the same day, relative to the Choctaw case of Mrs. Lula West, a recognized citizen of the Choctaw Nation, who was admitted by the Commission in 1896 and by the United States Court upon appeal, but denied enrollment by the Choctaw-Chickasaw Citizenship Court.

You are requested to cause an investigation to be made of the record in said case No. 59, and to furnish a report to the Department showing whether or not the allegations of Mr. Armstrong are correct.

Respectfully,

(Signed) THOS. RYAN,
Acting Secretary.

J. W. H.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

YEN.

I. T. D. 12958-1904.
2909-1905.

April 1, 1905.

L. R. S.

Commission to the Five Civilized Tribes,

Muskogee, Indian Territory.

Gentlemen:

The Department is in receipt of a letter dated March 23, 1905, from W. G. Armstrong, of Chickasha, Indian Territory, concerning the application for the enrollment of himself, his wife and children, as citizens of the Choctaw Nation. He states that in November of 1895 the Choctaw Nation admitted his wife and children to citizenship; that in December of 1896 the Dawes Commission refused them enrollment; that the revisory board appointed by the Choctaw Legislature in 1896 enrolled himself, his wife and children on the final roll in October, 1896; that being refused enrollment by the Dawes Commission he appealed to the United States Court in the Indian Territory, which upheld the Commission's judgment; that when the Citizenship Court was created he appealed to the court, and it denied his application.

Apparently, Mr. Armstrong was a party to the case of Mattie Lee Armstrong, et al, vs. the Choctaw and Chickasaw Nations, No. 59, decision in which was rendered adverse to the

applicants November 28, 1904. If, as Mr. Armstrong alleges, his wife and children were admitted by the Choctaw Nation to its Citizenship in November of 1896, and if he was married subsequent to that date according to the tribal law, the action of the commission and of the United States Court, under the act of June 10, 1896, was taken without proper jurisdiction, and consequently without force or effect, inasmuch as, if the conditions indicated above are found true, they were recognized citizens of said nation. See opinion of the Assistant Attorney General of February 10, 1905, approved by the Department the same day, relative to the Choctaw case of Mrs. Lula West, a recognized citizen of the Choctaw Nation, who was admitted by the Commission in 1896 and by the United States Court upon appeal, but denied enrollment by the Choctaw-Chickasaw Citizenship Court.

You are requested to cause an investigation to be made of the record in said case No. 59, and to furnish a report to the Department showing whether or not the allegations of Mr. Armstrong are correct.

Indorse on back
as follows:

Commission to the Five Civilized
Tribes. No. 17552

Received, Apr 10 1906.
24974

Apr 17 1906.
Department,

Ryan,

Washington. D. C.

Respectfully,

Thos. Ryan
Acting Secretary.

Transmit letter from W. G. Armstrong,
concerning application for enrollment of
himself, wife and children as Choctaws and asks
for report in said matter. Wm. O.B. 4/17/06

Wuskogee, Indian Territory, April 17, 1906.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to acknowledge receipt of Departmental letter of April 1st, 1906 (I. T. D 12958-1904, 2909-1905), referring to a letter from F. G. Armstrong of March 23, 1906, to the Secretary of the Interior, concerning the application for the enrollment of himself, his wife and children, as citizens of the Choctaw Nation. Mr. Armstrong alleges that in November, 1896, his wife and children were admitted to citizenship in the Choctaw Nation; that in December, 1896, the Dawes Commission refused them enrollment; that the revisory board appointed by the Choctaw Council in 1896 enrolled him and his wife and children on the final roll in October, 1896; that being refused enrollment by the Dawes Commission, he applied to the United States Court of Indian Territory, which sustained the judgment of the Commission; that when the Choctaw and Chickasaw Citizenship Court was created, he applied to said Court, and that his application was there denied.

The Department states that Mr. Armstrong is apparently one of the parties to the case of Mattie Lee Armstrong, et al, versus the Choctaw and Chickasaw Nations, No. 59, decision in which was rendered adverse to the applicants, November 28, 1904. The Department expresses the opinion that if Mr. Armstrong, his wife and children, as alleged, were admitted by the Choctaw Nation in November, 1895, and if he was married subsequent to that date according to the tribal law, the action of the Commission and of the United States Court under the Act of Congress approved June 10, 1896, was taken without proper jurisdiction, and consequently without force or effect, inasmuch as, if the conditions indicated are true, they were then recognized citizens of said Nation. In concluding, a report is requested as to the showing made in this respect by the records of the Choctaw and Chickasaw Citizenship Court.

In replying to Departmental letter of April 1st, 1905, I have the honor to submit the following report:

Under the provisions of the Act of Congress approved June 10, 1896 (29 Stats., 341), there was, on September 7th, 1896, filed with the Commission to the Five Civilized Tribes, the original application of Mattie Lee Armstrong for the admission of herself and her two minor children, Layton Buford Armstrong and Bessie Durant Armstrong, as citizens by blood, and

-3-

for the admission of her husband, W. G. Armstrong, as a citizen by intermarriage of the Choctaw Nation.

On December 2, 1896, the Commission entered a judgment denying the application for the admission of the above named persons to citizenship in the Choctaw Nation. From this decision of the Commission, an appeal was perfected to the United States Court for the Southern District of the Indian Territory, and on December 21, 1897, a judgment was rendered by said court, decreeing "that the applicants, Mattie Lee Armstrong, Layton Buford Armstrong and Bonnie Durant Armstrong, are members of the tribe of Choctaw Indians by blood, and that the applicant, W. G. Armstrong, is a member of said tribe of Choctaw Indians by intermarriage, and as such are entitled to have their names enrolled as members of the tribe of Choctaw Indians". This judgment was in full force and effect until the rendition of the decree of the Choctaw and Chickasaw Citizenship Court, of December 17, 1902, in the case of "The Choctaw and Chickasaw Nations or Tribes, versus J. T. Riddle, et al".

After the nullification of the judgment of the United States Court of December 21, 1897, the applicants, W. G. Armstrong, Mattie Lee Armstrong, Layton Buford Armstrong and Bonnie Durant Armstrong, on March 10, 1903, filed with the Choctaw

the and Chickasaw Citizenship Court a petition for an appeal to said court, and on the same date the Choctaw and Chickasaw Citizenship Court directed the Clerk of the United States Court for the Southern District of the Indian Territory, to certify to the said Citizenship Court a copy of the judgment, together with all the papers, files and proceedings had in the case of Mattie Lee Armstrong, et al, versus the Choctaw Nation, before the United States Court for the Southern District of the Indian Territory. The case was subsequently docketed by the Citizenship Court (Fishbein Case, No. 58), entitled "Mattie Lee Armstrong, et al., versus the Choctaw and Chickasaw Nations".

On November 28, 1904, a decree was rendered by the Choctaw and Chickasaw Citizenship Court to the effect "that the petition of the plaintiffs, Mattie Lee Armstrong, W. G. Armstrong, Layton Buford Armstrong (or Layton Buford Armstrong) and Bennie Durant Armstrong (or Bonnie Durant Armstrong), be denied, and that they be declared not citizens of the Choctaw Nation and not entitled to enrollment as such citizens and not entitled to any rights whatever flowing therefrom". The opinion of the Choctaw and Chickasaw Citizenship Court was rendered by Judge Walter L. Weaver. Certified copies of the decree and opinion of the court in this case have heretofore been forwarded the Department.

In reference to the admission of Mattie Lee Armstrong and her two children as citizens of the Choctaw Nation prior to the submission of the application on September 7, 1896, I have the honor to report that on November 8, 1895, there was approved by Jeff Gardner, the then Principal Chief of the Choctaw Nation, an act of the general Council of the Choctaw Nation, admitting certain persons therein mentioned to citizenship, as follows:

"Be it enacted by the General Council of the Choctaw Nation assembled, that Nancy Lee Cundiff and her daughter, Mattie Lee Armstrong, also her children Bonnie Durant Armstrong, aged nine years, and Layton Armstrong, aged seven years, all members of the Pitchlynn and Durant families of Choctaws, be and the same are hereby admitted to all the rights and privileges of citizenship in the Choctaw Nation, and this act shall take effect and be in force from and after its passage".

A certified copy of this act of admission was filed with the original papers in the case of W. G. Armstrong, et al., versus the Choctaw Nation, submitted to the Commission to the Five Civilized Tribes under the provisions of the Act of Congress approved June 10, 1896 (29 Stat., 321).

I have the honor to further report that Mattie Lee Armstrong and her two minor children were, subsequent to the act of admission by the Choctaw National Council of November 8, 1895, recognized and enrolled by the tribal authorities of the Choctaw Nation as citizens of said tribe, their names appearing upon the 1896 census roll of the citizens of the Choctaw Nation

opposite numbers 561, 562 and 563, respectively, as residents of the Chickasaw district.

As to the status of W. G. Armstrong, the husband of Mattie Lee Armstrong, it appears that they were married in Wise County, Texas, October 21, 1885, long prior to the admission of Mattie Lee Armstrong and her two children to citizenship in the Choctaw Nation. There is nothing in the records of the Commission, of the United States Court, or of the Choctaw and Chickasaw Citizenship Court, indicating that W. G. Armstrong was ever married to Mattie Lee Armstrong in conformity with the laws, customs and usages of the Choctaw Nation. His name, however, appears upon the 1896 Choctaw Census Roll, Chickasaw District, No. 14872, as an intermarried citizen of the Choctaw Nation. On June 3, 1904, Messrs. Potter & Potter, of Gainesville, Texas, the attorneys for Mattie Lee Armstrong, et al, in the presentation of this case to the Citizenship Court, state as to W. G. Armstrong as follows:

"I don't see any authority in the world for admitting Mr. Armstrong, either in the evidence or in the law, and I shall only insist upon the enrollment of Mattie Lee Armstrong and her two children, and shall base their right upon the Act of the Choctaw Council, a certified copy of which I now offer in evidence".

I have the honor to further report that since the admission of Mattie Lee Armstrong and her two minor children, Layton Buford Armstrong and Bonnie Durant Armstrong, there has

been born to her a third child, Rebecca E. Armstrong, whose application for enrollment as a citizen of the Choctaw Nation was dismissed by the Commission on January 12, 1908, upon the theory that the citizenship of Mattie Lee Armstrong having been adversely determined by the decree of the Choctaw and Chickasaw Citizenship Court, the Commission was without jurisdiction to further determine the rights of the said Rebecca E. Armstrong.

Respectfully,

SIGNED *Tamm Bixby.*

Chairman.

Through the Commissioner
of Indian Affairs.

(C O P Y)

DEPARTMENT OF THE INTERIOR ,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

Land.
30,319-1905.

May 15, 1905.

The Honorable,

The Secretary of the Interior.

Sir:

Referring to Department letter of April 1, 1905--I.T.D. 12,958-1904, 29,019-1905--referring to the Commission to the Five Civilized Tribes for report a communication from W. G. Armstrong, dated March 23, 1905, concerning his application for the enrollment of himself, his wife and children, as citizens of the Choctaw Nation, I have the honor to enclose a report from the Commission, dated April 17, 1905, relative to said applicants.

The Commission says that on September 7, 1896, there was filed with it, under the provisions of the Act of June 10, 1896, original application of Mattie Lee Armstrong for the admission of herself and her two minor children, Layton Buford Armstrong and Benny Durant Armstrong, as citizens by blood, and for the admission of her husband, W. G. Armstrong, as a citizen by inter-marriage, of the Choctaw Nation.

December 2, 1896, the Commission denied the application of all of the applicants. An appeal was taken from the Commission's decision to the United States Court for the Southern District

of the Indian Territory, which on December 21, 1897, rendered judgment declaring "that the applicants, Mattie Lee Armstrong, Layton Buford Armstrong and Bonnie Durant Armstrong, are members of the tribe of Cheetaw Indians by blood, and that the applicants, W. G. Armstrong, is a member of said tribe of Cheetaw Indians by intermarriage, and as such are entitle to have their names enrolled as members of the tribe of Cheetaw Indians".

This judgment, the Commission says, was in full force and effect until the Cheetaw and Chickasaw Citizenship Court on December 7, 1902, rendered a decision in the test suit entitled "The Cheetaw and Chickasaw Nations or Tribes versus J.T. Riddle, et al.", and that after the vacation or annulment of the decision of the court in 1897 in said cause by the Citizenship Court the applicants filed with the Cheetaw and Chickasaw Citizenship Court a petition for an appeal to said court; that the case was subsequently docketed by the Citizenship Court as Case No. 59, Tishomingo, entitled "Mattie Lee Armstrong, et al., versus the Cheetaw and Chickasaw Nations", and that on November 28, 1904, said court rendered a decree holding that "the petition of the plaintiffs, Mattie Lee Armstrong, W. G. Armstrong, Layton Buford Armstrong (or Layton Buford Armstrong) and Bonnie Durant Armstrong (or Bonnie Durant Armstrong), be denied, and that they be declared not citizens of the Cheetaw Nation and not entitled to enrollment as such citizens and not entitled to any rights whatever flowing therefrom".

The Commission further says that on November 8, 1898, Jeff

Gardner, the then Principal Chief of the Choctaw Nation, approved an Act of the National Council of said nation, as follows:

"Be it enacted by the General Council of the Choctaw Nation assembled, that Nancy Lee Cundiff and her daughter, Mattie Lee Armstrong, also her children Bonnie Durant Armstrong, aged nine years, and Layton Armstrong, aged seven years, all members of the Pitchlyn and Durant families of Choctaws, be and the same are hereby admitted to all rights and privileges of citizenship in the Choctaw Nation, and this act shall take effect and be in force from and after its passage".

A certified copy of the act of admission, it is stated by the Commission, was filed with the original papers in the case of W. G. Armstrong, et al., versus the Choctaw Nation, submitted to the Commission under the provisions of the Act of June 10, 1896. The Commission's report shows that the names of Mattie Lee Armstrong and her two minor children appear upon the 1896 census roll of citizens of the Choctaw Nation, opposite Nos. 561, 562 and 563, respectively, as residents of the Chickasaw district.

It appears that Mattie Lee Armstrong and her husband, W. G. Armstrong were married in Wise County, Texas, October 21, 1888 which was prior to the admission of Mattie Lee Armstrong and her two minor children to citizenship in the Choctaw Nation, and the Commission says there is nothing in its records or those of the United States Court or of the Choctaw and Chickasaw Citizenship Court indicating that said Armstrong and his wife were married in accordance with the laws, customs and usages of the Choctaw Nation; that his name appears, however, upon the

1896 Chectaw census roll, Chickasaw District, No. 14,272, as an Intermarried citizen of the Chectaw Nation, and that on June 3, 1904, Messrs. Potter and Potter, Attorneys for Mattie Lee Armstrong, et al., in the presentation of the case to the Citizenship Court, as to W. G. Armstrong, said:

"I don't see any authority in the world for admitting Mr. Armstrong, either in the evidence or in the law, and I shall only insist upon the enrollment of Mattie Lee Armstrong and her two children, and shall base their right upon the Act of the Chectaw Council, a certified copy of which I now offer in evidence".

From the Commission's report it seems that Mattie Lee Armstrong and her two minor children, then in being, were enrolled in 1896 by what is generally known as the Revisory Board appointed under an Act of the National Council of the Chectaw Nation.

Under the Department's holdings in the case of Wiley Adams and Clay McCoy, Mattie Lee Armstrong and her two minor children admitted by the Act of the National Council of November 8, 1898, are entitled to enrollment as citizens by blood of the Chectaw Nation, as it was in the Wiley Adams and Clay McCoy cases that they were citizens, and that the Commission had no duty to perform except to inscribe their names upon the rolls prepared by it. I do not consider it necessary, therefore, to enter into any discussion of the roll prepared under the supervision of the Revisory Board as it appears Mattie Lee Armstrong and two of her minor children are, under said holdings of the Department, entitled to enrollment.

From the papers before the Office it is evident that W. G.

Armstrong is not entitled to enrollment as an intermarried citizen as he did not marry his wife, who now seems to be of Choctaw blood, in accordance with the laws, customs and usages of the Choctaw tribe. If Mattie Lee Armstrong and her two minor children in being in 1896 are entitled to enrollment, the question as to the right of her minor child, Rebecca K. Armstrong to enrollment, who it seems, was born since 1896, arises.

The Commission on January 19, 1905, dismissed the application of Mattie Lee Armstrong for the enrollment of Rebecca K. Armstrong, holding that it was without jurisdiction to consider her rights, inasmuch as the Choctaw and Chickasaw Citizenship Court had decided adversely to her mother.

The Act of Congress approved March 3, 1905, (Public No. 212), provides that "The Commission to the Five Civilized Tribes is hereby authorized for sixty days after the date of the approval of this act, to receive and consider application for the enrollment of children born subsequent to September 25, 1902, and prior to March 4, 1905, and who were living on said latter date, to citizens by blood of the Choctaw and Chickasaw Tribe of Indians whose enrollment has been approved by the Secretary of the Interior prior to the date of the approval of this Act, and to enroll and make allotment to such children".

Equitably speaking, if Mattie Lee Armstrong and her minor children other than Rebecca K. Armstrong, are entitled to enrollment, Rebecca K. Armstrong should also be enrolled. But the Office believes that it is its duty to construe the law as it

finds it and not as it believes it should be, and the Act of March 3, 1905, specifically declares that the Commission shall consider applications made within sixty days from the date mentioned for the enrollment of minor children born to Choctaw and Chickasaw citizens after September 25, 1902, and before March 4, 1905, who were living on the latter date to members of the tribes "whose enrollment has been approved by the Secretary of the Interior prior to the date of the approval of this act (March 3, 1905), and to enroll and make allotments to such children". The enrollment of Mattie Lee Armstrong has not been approved, and even if her enrollment is hereafter approved, her minor child, Rebecca K. Armstrong, cannot, under the language contained in the Act of March 3, 1905, be enrolled if she was born subsequent to September 25, 1902. If she was born, however, before September 25, 1902, and application for her enrollment was made before December 24, 1902, she is entitled to enrollment if her mother is enrolled, but if application was not made for her enrollment before that date, she cannot, under the doctrine laid down by the Department in the Esau Wolf case, be enrolled even though she were born before September 25, 1902.

Very respectfully,

(signed) C. F. Larrabee,

Acting Commissioner.

(G.A.W.) P.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

F.L.E.
L.R.S.
I.T.D.2909, 5638-1906.

J.V.H.
LLR

May 2, 1906.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

The Department has considered the report of the Commission to the Five Civilized Tribes of April 17, 1905, concerning the enrollment of W. G. Armstrong as a citizen by intermarriage and the enrollment of his wife, Mattie Lee Armstrong, and children as citizens by blood, of the Cheetaw Nation. This report is based upon Mr. Armstrong's letter of March 23, 1905, which was referred to the Commission by departmental letter of April 1, 1905, for report. In said letter Mr. Armstrong asserted the right of himself and the members of his family to be enrolled as citizens of said nation.

From the Commission's report of April 17, 1905, it appears that the original application of Mattie Lee Armstrong for the "admission" of herself and her two minor children, Layton Buford Armstrong and Benny Durant Armstrong, as citizens by blood, and for the "admission" of her husband, W. G. Armstrong, as a citizen by intermarriage of the Cheetaw Nation, was filed with the Com-

mission to the Five Civilized Tribes September 7, 1896, under the act of June 10, 1896 (29 Stat., 321). This application was denied by the Commission, but upon appeal to the United States Court for the Southern District of the Indian Territory the applications were found to be entitled to enrollment as citizens of the nation. This judgment was vacated by the decree of the Choctaw-Chickasaw Citizenship Court of December 17, 1902, in the J. T. Riddle case. Subsequently, the applicants carried their case to the Choctaw-Chickasaw Citizenship Court, by which decision, adverse to the applicants, was rendered November 23, 1904.

It further appears from the Commission's report that by act of the Choctaw Council approved November 8, 1898, Mattie Lee Armstrong and her two oldest children were admitted to all the privileges of citizenship in the Choctaw Nation. Said act reads as follows:

"Be it enacted by the General Council of the Choctaw Nation assembled, that Nancy Lee Cundiff and her daughter, Mattie Lee Armstrong, also her children Bennie Durant Armstrong, aged nine years, and Layton Armstrong, aged seven years, all members of the Pitchlyn and Durant families of Choctaws, be and the same are hereby admitted to all the rights and privileges of citizenship in the Choctaw Nation, and this act shall take effect and be in force from and after its passage."

Subsequently, the names of W. G. Armstrong, of his wife, and two older children were placed by the tribal authorities upon the 1896 census roll of the Choctaw Nation.

It also appears from the Commission's report that on January 19, 1905, an application for the enrollment of Rebecca K. Armstrong, child of Mattie Lee Armstrong, was dismissed by the Commission, upon the theory that the citizenship of Mattie Lee Armstrong having been adversely determined by the decree of the Choctaw-Chickasaw Citizenship Court, the Commission was without jurisdiction to further determine the rights of said child.

On May 15, 1905, the Indian Office reported in the matter. A copy of its letter of that date is inclosed.

It now appears, that under the rulings of the Department in the case mentioned by the Indian Office, and in other similar cases, that the Commission and the courts acted without jurisdiction upon the petition submitted by Mattie Lee Armstrong in 1896, also that the rights of her third child should be disposed of according to the act of April 26, 1906 (Public 129).

In view of the leading cases and the act referred to above, you are directed to adjudicate the cases of all the persons mentioned herein upon their merits.

Mr. Armstrong's letter of March 23, 1905, is also inclosed.

Respectfully,

Signed Thos. Ryan.
First Assistant Secretary.

Through the Commissioner
of Indian Affairs.

2 inclosures.

COPY.

Muskogee, Indian Territory, May 14, 1906.

Cruce, Cruce & Bleakmore,
Attorneys at Law,
Ardmore, Indian Territory.

Gentlemen:

The Department on April 1, 1905, referred to the Commission to the Five Civilized Tribes for report and recommendation, a letter of W. G. Armstrong, of Chickasha, Indian Territory, dated March 23, 1905, concerning the application for the enrollment of himself, his wife, Mattie Lee Armstrong, and their children, Layton B., Bonnie D. and Rebecca K. Armstrong, as citizens of the Choctaw Nation. A Report upon Mr. Armstrong's letter was submitted to the Secretary of the Interior by the Commission to the Five Civilized Tribes on April 17, 1905.

There was filed with this office on February 6, 1906, by Messrs. Cruce, Cruce & Bleakmore, Ardmore, Indian Territory, a petition praying for the enrollment of William G. Armstrong, Mattie Lee Armstrong, Bonnie D. Armstrong, Layton B. Armstrong and Rebecca K. Armstrong.

This petition was filed in conformity with the regulations adopted by the Commissioner to the Five Civilized Tribes January 2, 1906, and shows proof of service of a copy thereof upon Messrs. Mansfield, McMurray & Cornish, the attorneys for the Choctaw and Chickasaw Nations.

(2)

This office is now in receipt of Departmental letter of May 2, 1906, (I.T.D. 2909, 5638-1906) in reference to this case and in which it is held that the Commission to the Five Civilized Tribes and the courts acted without jurisdiction upon the petition submitted by Mattie Lee Armstrong in 1896 and directs that the application for the enrollment of all the persons mentioned be adjudicated upon the merits.

For your information there is enclosed herewith a copy of Departmental letter of May 2, 1906, accompanied by the report of the Acting Commissioner of Indian Affairs of May 15, 1906, in reference to the right to enrollment of W. G. Armstrong, his wife and children, as citizens of the Choctaw Nation.

You are advised that the Commissioner to the Five Civilized Tribes will, at his office at Muskogee, Indian Territory, on Monday, June 4, 1906, at nine o'clock A. M., hear such testimony and receive such other evidence as may be submitted in reference to the right to enrollment of W. G. Armstrong, his wife and children, as citizens of the Choctaw Nation.

Respectfully,

SIGNED *Wm. O. Beall.*

Acting Commissioner.

OF 14-2

COPY.

Muskogee, Indian Territory, May 14, 1906.

W. G. Armstrong,

Chickasha, Indian Territory.

Dear Sir:

Under date of March 23, 1905, you directed a letter to the Secretary of the Interior in reference to the right to enrollment of yourself and your wife, Mattie Lee Armstrong, and your three children, Layton B., Bonnie D. and Rebecca K. Armstrong.

This letter was referred to the Commission to the Five Civilized Tribes for report and recommendation April 1, 1905. A report upon the case was submitted to the Secretary of the Interior by the Commission to the Five Civilized Tribes April 17, 1905.

It appears that under the regulations adopted by the Commissioner to the Five Civilized Tribes on January 2, 1906, there was filed with this office on February 6, 1906, by Cruce, Cruce & Bleakmore, attorneys at law, Ardmore, Indian Territory, a petition praying for the enrollment of William G. Armstrong, Mattie Lee Armstrong, Bonnie D. Armstrong, Layton B. Armstrong and Rebecca K. Armstrong as citizens of the Choctaw Nation.

The Department, after a consideration of this case, directed on May 2, 1906, that the rights of the applicants be considered and adjudicated upon the merits.

(2)

You are accordingly advised that the Commissioner to the Five Civilized Tribes will, at his office at Muskogee, Indian Territory, on Monday, June 4, 1906, at nine o'clock A. M., hear such testimony and receive such other evidence as may be submitted in reference to the right to enrollment of W. C. Armstrong, his wife and children as citizens of the Choctaw Nation.

Notice of this hearing has been furnished Cruce, Cruce & Bleakmore, Ardmore, Indian Territory, and Potter & Potter, Gainesville, Texas, who appear as attorneys of record for the applicants, and also to Mansfield, McMurray & Cernish, South McAlester, Indian Territory, the attorneys for the Choctaw and Chickasaw Nations.

Respectfully,

SIGNED

Wm. O. Beall.

Acting Commissioner.

COPY. -

Muskegee, Indian Territory, May 14, 1906.

Potter & Potter,
Gainesville, Texas.

Gentlemen:

The Department on April 1, 1905, referred to the Commission to the Five Civilized Tribes for report and recommendation, a letter of W. G. Armstrong, of Chickasha, Indian Territory, dated March 23, 1905, concerning the application for the enrollment of himself, his wife, Mattie Lee Armstrong, and their children, Layton B., Bonnie D. and Rebecca K. Armstrong, as citizens of the Choctaw Nation. A report upon Mr. Armstrong's letter was submitted to the Secretary of the Interior by the Commission to the Five Civilized Tribes on April 17, 1905.

There was filed with this office on February 6, 1906, by Messrs. Cruce, Cruce & Bleakmore, Ardmore, Indian Territory, a petition praying for the enrollment of William G. Armstrong, Mattie Lee Armstrong, Bonnie D. Armstrong, Layton B. Armstrong and Rebecca K. Armstrong.

This petition was filed in conformity with the regulations adopted by the Commissioner to the Five Civilized Tribes January 2, 1906, and shows proof of service of a copy thereof upon Messrs. Mansfield, McMurray & Cornish, the attorneys for the Choctaw and Chickasaw Nations.

(2)

This office is now in receipt of Departmental letter of May 2, 1906 (I.T.D. 2909, 5638-1906), in reference to this case and in which it is held that the Commission to the Five Civilized Tribes and the courts acted without jurisdiction upon the petition submitted by Mattie Lee Armstrong in 1896 and directs that the application for the enrollment of all the persons mentioned be adjudicated upon the merits.

For your information there is enclosed herewith a copy of Departmental letter of May 2, 1906, accompanied by the report of the Acting Commissioner of Indian Affairs of May 18, 1905, in reference to the right to enrollment of W. G. Armstrong, his wife and children, as citizens of the Choctaw Nation.

You are advised that the Commissioner to the Five Civilized Tribes will, at his office at Muskogee, Indian Territory, on Monday, June 4, 1906, at nine o'clock A. M., hear such testimony and receive such other evidence as may be submitted in reference to the right to enrollment of W. G. Armstrong, his wife and children, as citizens of the Choctaw Nation.

Respectfully,

SIGNED *Wm. C. Deall.*
Acting Commissioner.

OP 14-3

COPY.

Muskogee, Indian Territory, May 14, 1906.

Manafield, McMurray & Cornish,

Attorneys for the Choctaw and Chickasaw Nations,

South McAlester, Indian Territory.

Gentlemen:

The Department on April 1, 1905, referred to the Commission to the Five Civilized Tribes for report and recommendation, a letter of W. G. Armstrong, of Chickasha, Indian Territory, dated March 23, 1905, concerning the application for the enrollment of himself, his wife, Mattie Lee Armstrong, and their children, Layton B., Bonnie D. and Rebecca K. Armstrong, as citizens of the Choctaw Nation. A report upon Mr. Armstrong's letter was submitted to the Secretary of the Interior by the Commission to the Five Civilized Tribes on April 17, 1905.

There was filed with this office on February 6, 1906, by Messrs. Cruce, Cruce & Bleakmore, Ardmore, Indian Territory, a petition praying for the enrollment of William G. Armstrong, Mattie Lee Armstrong, Bonnie D. Armstrong, Layton B. Armstrong and Rebecca K. Armstrong.

This petition was filed in conformity with the regulations adopted by the Commissioner to the Five Civilized Tribes January 2, 1906, and shows proof of service of a copy thereof upon Messrs. Manafield, McMurray & Cornish, the attorneys for the Choctaw and Chickasaw Nations.

(2)

This office is now in receipt of Departmental letter of May 2, 1906, (I.T.D. 2909, 5638-1906) in reference to this case and in which it is held that the Commission to the Five Civilized Tribes and the courts acted without jurisdiction upon the petition submitted by Mattie Lee Armstrong in 1896 and directs that the application for the enrollment of all the persons mentioned be adjudicated upon the merits.

For your information there is enclosed herewith a copy of Departmental letter of May 2, 1906, accompanied by the report of the Acting Commissioner of Indian Affairs of May 15, 1906, in reference to the right to enrollment of W. G. Armstrong, his wife and children, as citizens of the Choctaw Nation.

You are advised that the Commissioner to the Five Civilized Tribes will, at his office at Muskogee, Indian Territory, on Monday, June 4, 1906, at nine o'clock A. M., hear such testimony and receive such other evidence as may be submitted in reference to the right to enrollment of W. G. Armstrong, his wife and children, as citizens of the Choctaw Nation.

Respectfully,

SIGNED *Wm. O. Deali.*

Acting Commissioner.

OP 14-1

7-5108

Muskogee, Indian Territory, May 31, 1906.

Barefoot & Carmichael,

Chickasha, Indian Territory,

Gentlemen:

Receipt is hereby acknowledged of your letter of May 23, 1906, transmitting the affidavits of Mattie Lee Armstrong and J. E. Stinson M. D., to the birth of Rebecca King Armstrong, child of William G. and Mattie Lee Armstrong, May 20, 1898.

Respectfully,

Commissioner.

7-5108

Muskogee, Indian Territory, June 20, 1906.

Chief Clerk,

Chickasaw Land Office,

Ardmore, Indian Territory.

Dear Sir:

You are advised that the citizenship case of W. G. Armstrong et al. is now pending before this office and you are directed to allow Bonnie Durant Armstrong whose name appears upon Choctaw roll card No. 5108 as Bonnie D. Armstrong, to institute contest for land upon which she owns improvements upon her personal appearance at your office.

Respectfully,

Commissioner.

Luskogee, Indian Territory, June 20, 1906.

Cruce, Cruce & Bleakmore,
Attorneys at Law,
Ardmore, Indian Territory.

Gentlemen:

Receipt is hereby acknowledged of your letter of June 14, 1906, in which you ask that the Chickasaw Land Office be directed to allow Bonnie Durant Armstrong to institute contest proceedings; you state that evidence was introduced in this citizenship case June 4, 1906, and that this matter is now pending before this office and she desires to institute contest proceedings because land on which she owns improvements have been allotted to other members of the tribe and she wishes to prevent the removal of her tenants by the Indian Agent.

In reply to your letter you are advised that Bonnie Durant Armstrong will be permitted to institute contest proceedings for land on which she owns improvements upon her personal appearance at the Chickasaw Land Office.

Respectfully,

Commissioner.

7-5108.

Muskogee, Indian Territory, July 9, 1906.

COPY

W. G. Armstrong,

Chickasha, Indian Territory.

Dear Sir:

Inclosed herewith you will find a copy of the decision of the Commissioner to the Five Civilized Tribes, rendered July 9, 1906, granting the application for the enrollment of Mattie L. Armstrong, Layton B. Armstrong, Bonnie D. Armstrong and Rebecca K. Armstrong as citizens by blood of the Choctaw Nation, and denying your application for enrollment as a citizen by intermarriage of the Choctaw Nation.

The attorneys for the Choctaw and Chickasaw Nations have been furnished a copy of this decision and have been allowed fifteen days from the date of this notice within which to file protest against their enrollment. If at the expiration of that time no protest has been filed, the names of Mattie L. Armstrong, Layton B. Armstrong, Bonnie D. Armstrong and Rebecca K. Armstrong will be placed upon the final roll of citizens by blood of the Choctaw Nation to be submitted to the Secretary of the Interior for his approval.

Respectfully,

SIGNED

Tame Dixby

Commissioner.

Registered.

7-Incl. 7-5108.

7-5108.

copy.
Muskogee, Indian Territory, July 9, 1906.

Cruce, Cruce & Bleakmore,
Attorneys at Law,
Ardmore, Indian Territory.

Gentlemen:

You are hereby notified that the Commissioner to the Five Civilized Tribes, rendered his decision, on July 9, 1906, granting the application for the enrollment of Mattie L. Armstrong, Layton B. Armstrong, Bonnie D. Armstrong and Rebecca K. Armstrong as citizens by blood of the Choctaw Nation, and denying the application for the enrollment of W. G. Armstrong as a citizen by intermarriage of the Choctaw Nation.

The attorneys for the Choctaw and Chickasaw Nations have been furnished a copy of said decision and have been allowed fifteen days from the date of this notice within which to file protest against their enrollment. If at the expiration of that time no protest has been filed, the names of Mattie L. Armstrong, Layton B. Armstrong, Bonnie D. Armstrong and Rebecca K. Armstrong will be placed upon the final roll of citizens by blood of the Choctaw Nation to be submitted to the Secretary of the Interior for his approval.

Respectfully,

SIGNED *Tama Dixby*
Commissioner.

Registered.

7-5108.

copy

Muskogee, Indian Territory, July 9, 1906.

Potter & Potter,
Attorneys at Law,
Gainesville, Texas

Gentlemen:

You are hereby notified that the Commissioner to the Five Civilized Tribes, rendered his decision, on July 9, 1906, granting the application for the enrollment of Mattie L. Armstrong, Layton B. Armstrong, Bonnie D. Armstrong and Rebecca K. Armstrong as citizens by blood of the Choctaw Nation, and denying the application for the enrollment of G. W. Armstrong as a citizen by intermarriage of the Choctaw Nation.

The attorneys for the Choctaw and Chickasaw Nations have been furnished a copy of said decision and have been allowed fifteen days from the date of this notice within which to file protest against their enrollment. If at the expiration of that time no protest has been filed, the names of Mattie L. Armstrong, Layton B. Armstrong, Bonnie D. Armstrong and Rebecca K. Armstrong will be placed upon the final roll of citizens by blood of the Choctaw Nation to be submitted to the Secretary of the Interior for his approval.

Respectfully,

SIGNED

James B. H. B.
Commissioner.

Registered.

7-5108.

Muskogee, Indian Territory, July 9, 1906.

Mansfield, McMurray & Cornish,

Attorneys for Choctaw and Chickasaw Nations,
South McAlester, Indian Territory.

Gentlemen:

Inclosed herewith you will find a copy of the decision of the Commissioner to the Five Civilized Tribes, rendered July 9, 1906, granting the application for the enrollment of Mattie L. Armstrong, Layton B. Armstrong, Bonnie D. Armstrong and Rebecca K. Armstrong as citizens by blood of the Choctaw Nation, and denying the application for the enrollment of W. G. Armstrong as a citizen by intermarriage of the Choctaw Nation.

You are hereby advised that you will be allowed fifteen days from the date of this notice within which to file protest against their enrollment. If at the expiration of that time no protest has been filed, the names of Mattie L. Armstrong, Layton B. Armstrong, Bonnie D. Armstrong and Rebecca K. Armstrong will be placed upon the final roll of citizens by blood of the Choctaw Nation to be submitted to the Secretary of the Interior for his approval.

Respectfully,

SIGNED

Tame Bixby

Commissioner.

Registered.

Incl. 7-5108.

Muskogee, Indian Territory, July 9, 1906.

COPY.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to transmit herewith my decision of July 9, 1906, in the matter of the application of W. G. Armstrong et al., for enrollment as citizens of the Choctaw Nation, enrolling Mattie L. Armstrong, Layton B. Armstrong, Bonnie D. Armstrong and Rebecca K. Armstrong as citizens by blood, and denying the application for the enrollment of W. G. Armstrong as a citizen by intermarriage, of the Choctaw Nation.

The attorneys for the Choctaw and Chickasaw Nations have been allowed fifteen days from this date within which to protest to this decision, and in the event of no protest within that time, the names of Mattie L. Armstrong, Layton B. Armstrong, Bonnie D. Armstrong and Rebecca K. Armstrong will be placed upon a schedule of citizens by blood of the Choctaw Nation prepared for forwarding to the Secretary of the Interior.

Respectfully,

SIGNED *T. J. Pease - Pease*

2 Incl. 7-5108.

Commissioner.

Through the
Commissioner of Indian Affairs.

7-5108

Muskogee, Indian Territory, August 21, 1906.

W. G. Armstrong,

Chickasha, Indian Territory,

Dear Sir:

You are hereby advised that on August 11, 1906, the Secretary of the Interior affirmed the decision of the Commissioner to the Five Civilized Tribes of July 9, 1906, granting the application for the enrollment of Mattie L., Layton B., Bonnie D., and Rebecca K. Armstrong, as citizens by blood, and denying your application for enrollment as a citizen by intermarriage, of the Choctaw Nation.

The names of your wife and children have been placed upon a schedule of citizens by blood of the Choctaw Nation which has been forwarded the Secretary of the Interior, and you will be notified when their enrollment is approved by him.

Respectfully,

Commissioner.

7-5108

Muskogee, Indian Territory, August 21, 1906.

Cruce, Cruce & Bleakmore;
Attorneys at Law,
Ardmore, Indian Territory,

Gentlemen:

You are her by advised that on August 11, 1906, the Secretary of the Interior affirmed the decision of the Commissioner to the Five Civilized Tribes of July 9, 1906, granting the application for the enrollment of Mattie L., Layton B., Bonnie D. and Rebecca K. Armstrong as citizens by blood, and denying the application for the enrollment of W. G. Armstrong as a citizen by intermarriage of the Choctaw Nation.

For your information there is inclosed herewith a copy of Departmental letter of August 11, 1906, transmitting a copy of Indian Office letter of August 6, 1906, affirming said decision.

Respectfully,

LM 2/21

Commissioner.

7-5108

Muskogee, Indian Territory, August 21, 1906.

Potter & Potter,
Attorney at Law,
Gainesville, Texas,

Gentlemen:

You are hereby advised that on August 11, 1906, the Secretary of the Interior affirmed the decision of the Commissioner to the Five Civilized Tribes, of July 9, 1906, granting the application for the enrollment of Mattie L., Layton B., Bonnie D., and Rebecca K. Armstrong, as citizens by blood, and denying the application for the enrollment of W. G. Armstrong as a citizen by inter-marriage of the Choctaw Nation.

For your information there is inclosed herewith a copy of Departmental letter of August 11, 1906, transmitting a copy of Indian Office letter of August 6, 1906, affirming said decision.

Respectfully,

LM 3/21

Commissioner.

7-5108

Muskogee, Indian Territory, August 21, 1906.

Mansfield, McMurray & Cornish,

Attorneys for Choctaw and Chickasaw Nations,

South McAlester, Indian Territory,

Gentlemen:

You are hereby advised that on August 11, 1906, the Secretary of the Interior affirmed the decision of the Commissioner to the Five Civilized Tribes, of July 9, 1906, granting the application for the enrollment of Mattie L., Layton B., Bonnie D., and Rebecca K. Armstrong as citizens by blood, and denying the application for the enrollment of W. G. Armstrong, as a citizen by intermarriage, of the Choctaw Nation.

For your information there is inclosed herewith a copy of Departmental letter of August 11, 1906, transmitting copy of Indian Office letter of August 6, 1906, affirming said decision.

Respectfully,

LM 5/21

Commissioner.

SPECIAL.

J.P.

**DEPARTMENT OF THE INTERIOR,
WASHINGTON.**

FILE

January 15, 1907.

**D. . . 2920-1907.
I.T.D. 25668-1906.
818-1907.**

LRS

**Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.**

Sir:

Referring to departmental letters of January 9 and 14, 1907, in the matter of the application for the enrolment of Mattie Shockley et al., ne citizens by blood of the Choctaw Nation, you are advised that by direction of the President the case will be submitted to the Attorney-General for his opinion. You will suspend action relative to these claimants until further advised.

Respectfully,

Thos Ryan

First Assistant Secretary.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

March 2, 1907.

C O P Y

The Honorable,

The Secretary of the Interior.

Sir:

Acknowledgement is hereby made of the receipt of Departmental letter of this date, (I.T.D. 6902-1907), enclosing for report copy of letter of February 27, 1907 from the Commissioner to the Five Civilized Tribes, relative to the names of persons who have heretofore been placed on the final rolls of citizens by blood of the Choctaw and Chickasaw Nations, who are affected by the opinion of the Attorney General of the United States of February 19, 1907.

Commissioner Bixby sets out in his letter the names of all the persons now appearing on the rolls who are deemed by him to be without right to enrollment under the opinion of the Attorney General mentioned. In some of these cases patents have been executed and recorded, and in others no patents have been issued.

The Office is of the opinion that the list prepared by the Commissioner contains the names of persons who in the light of the opinion of the Attorney General are not entitled to enrollment, and it is therefore recommended that the action

-2-

of the Commissioner in striking the names of those persons from the roll be approved, and that their names also be stricken from the copies of the rolls in the possession of the Department and of this office.

Very respectfully,

C. F. Larrabee,

Acting Commissioner.

NY-12..

DEPARTMENT OF THE INTERIOR,

WASHINGTON.

J. F.
L. H.

I.T.D. 7794-1907.

L.R.E.

P.L.C.

A.C. 22462.

March 4, 1907.

Commissioner to the Five Civilized Tribes,

Muskogee, Indian Territory.

Sir:

In answer to Departmental telegram of February 21, 1907, and letter of the same date, you reported in letter of February 27, 1907, after inspection of the partial rolls of the Cheetau and Chickasaw nations, prepared under the act of June 25, 1898 (30 Stat., 498), and subsequent legislation, the persons whose names have been placed on such partial rolls, in your opinion, contrary to the views expressed in the Attorney-General's opinion of February 19, 1907, in the case of Myrtie Randolph and others, copy of which was transmitted to you with letter of February 23, 1907, and which names you recommended be stricken from the partial rolls, opposite the numbers mentioned by you.

Your list is as follows:

CHICKASAW BY BLOOD AND INTERMARRIAGE.

Charley E. Vincent, opposite No. 1468, upon the final roll of citizens by intermarriage of the Cheetau Nation. Denied by Commission in 1898 in case No. 251; no appeal. Patents recorded.

John Calvin Gray, opposite No. 1818, upon the final roll of citizens by intermarriage of the Choctaw nation. Admitted by Commission in 1896 in case No. 80, and denied by the United States court for the central district of Indian Territory on appeal; no appeal to the Choctaw and Chickasaw Citizenship Court.

Bailey Shelton, Frank Shelton, Emma Shelton, opposite Nos. 18951, 18952, 18953, respectively, upon the final roll of citizens by blood of the Choctaw nation. All denied by Commission in 1896 in case No. 1407; admitted by United States court for southern district of Indian Territory; no appeal to Choctaw and Chickasaw Citizenship Court. Patents for No. 18951 recorded.

John Shelton, opposite No. 1495, upon the final roll of citizens by intermarriage of the Choctaw Nation. Denied by Commission in 1896 in case No. 1407; admitted by United States court for southern district of Indian Territory; no appeal to Choctaw and Chickasaw Citizenship Court.

Isaac D. Sumpter, opposite No. 1469, upon the final roll of citizens by intermarriage of the Choctaw Nation. Denied by Commission in 1896 in case No. 1073; no appeal. Patents recorded.

John Sumpter, Amanda Isabella Sumpter, Jan Andy Sumpter, and Beatt Taylor Sumpter, appeal to Nos. 18645, 18646, 18647, and

15646, respectively, upon the final roll of citizens by blood of the Choctaw Nation. Denied by Commission in 1896 in case No. 1073; no appeal. Patents for No. 15646 recorded; homestead patent for No. 15647 recorded.

Dixon D. Sumpter, opposite No. 15649, upon the final roll of citizens by blood of the Choctaw Nation. Son of Nancy Sumpter, deceased, who was denied by Commission in 1896 in case No. 1073, and no appeal. Born in 1897.

Mattie S. Mitchell, opposite No. 1519, upon the final roll of citizens by intermarriage of the Choctaw Nation. Denied by Commission in 1896 in case No. 1299; no appeal.

Georgia Hyden, opposite No. 1601, upon the final roll of citizens by intermarriage of the Choctaw nation. Denied by Commission in 1896 in case No. 1344; admitted by United States court for the central district of Indian Territory; denied by the Choctaw and Chickasaw Citizenship Court. Decision of Commissioner of October 1, 1906, granting enrollment affirmed by Department November 17, 1906 (I.T.D.22624-1906).

Eva Marguerite Hyden, opposite No. 16103, upon the final roll of citizens by blood of the Choctaw nation. Denied by Commission in 1896 in case No. 1344; admitted by United States court for central district of Indian Territory; denied by Choctaw and Chickasaw Citizenship Court. Application for enrollment granted by

Commissioner October 1, 1906; affirmed by Department November 17, 1906 (X.T.D 22834-1906).

J. W. Kirk, opposite No. 1509, upon the final roll of citizens by intermarriage of the Choctaw nation. Denied by Commission in 1896 in case No. 948; appeal to United States district court dismissed.

Sarah Kirk and Gabriella Kirk, opposite Nos. 15393 and 15394, respectively, upon the final roll of citizens by blood of the Choctaw nation. Denied by Commission in 1896 in case No. 948; appeal to United States district court dismissed. Patents recorded.

William J. Crowder, Abigail Crowder, Maggie Crowder, Rosa Crowder, William H. Crowder, and John F. Crowder, opposite Nos. 15098, 15000, 15001, 15002, 15003, and 15004, respectively, upon the final roll of citizens by blood of the Choctaw nation. Denied by Commission in 1896 in case No. 960; no appeal. Patents for no. 15009 recorded.

Winnie Gertrude Crowder, born June 6, 1901, opposite No. 15903 upon the final roll of citizens by blood of the Choctaw nation. Daughter of William J. Crowder, who was denied by Commission in 1896 in case No. 960; no appeal.

Josephine Crowder, opposite No. 1823, upon the final roll of citizens by intermarriage of the Choctaw Nation. Denied by Commission in 1896 in case No. 763; no appeal. Wife of William J. Crowder opposite No. 18699.

George W. Crowder, Louisa Crowder, Joe Crowder and Belsori Crowder, opposite Nos. 18906, 18907, 18908 and 18909, respectively, upon the final roll of citizens by blood of the Choctaw nation. Denied by Commission in 1896 in case No. 712; no appeal. Patents for nos. 18906, 18907 and 18908 recorded.

Willie Crowder, born October 16, 1898, opposite No. 18910, upon the final roll of citizens by blood of the Choctaw nation. Son of George W. Crowder, who was denied by Commission in 1896 in case No. 712; no appeal. Patents recorded.

Parlee C. Crowder, opposite No. 1824; upon the final roll of citizens by intermarriage of the Choctaw Nation. Denied by Commission in 1896 in case No. 899; no appeal.

Van Crowder, opposite No. 18911, upon the final roll of citizens by blood of the Choctaw nation. Denied by Commission in 1896 in case No. 769; no appeal. Patents recorded.

Andrew L. Rice, opposite No. 1400, upon the final roll of citizens by intermarriage of the Choctaw nation. Denied by Commission in 1896 in case No. 652; no appeal. Patents recorded.

Betsy Wright, Thomas R. Wright, opposite Nos. 15912 and 15913, respectively, upon the final roll of citizens by blood of the Choctaw nation. Denied by Commission in 1896 in case No. 307; no appeal. Patents recorded.

Mary M. Wright and Leonard Balow Wright (both born since 1896), opposite Nos. 15914 and 15915, respectively, upon the final roll of citizens by blood of the Choctaw Nation. Children of Betsy Wright, who was denied by Commission in 1896 in case No. 307; no appeal. Patents recorded.

Andrew J. Allen, opposite No. 16126, upon the final roll of citizens by intermarriage of the Choctaw Nation. Admitted by Commission in 1896 in case No. 438; admitted by United States court for central district of Indian Territory; no appeal to the Choctaw and Chickasaw Citizenship Court.

Elizabeth Allen, opposite No. 16125, upon the final roll of citizens by blood of the Choctaw Nation. Admitted by Commission in 1896 in case No. 438; admitted by United States court for central district of Indian Territory; no appeal to the Choctaw and Chickasaw Citizenship Court.

William H. Tucker, opposite No. 1670, upon the final roll of citizens by intermarriage of the Choctaw nation. Admitted by Commission in 1896 in case No. 238; admitted by United States

court for central district of Indian Territory; no appeal to the
Choctaw and Chickasaw Citizenship Court. Patents recorded.

Arthur Jennings and Clyde Jennings, opposite nos. 18972
and 18973, respectively, upon the final roll of citizens by blood
of the Choctaw nation. Denied by Commission in 1896 in case No.
1048; admitted by United States court for Southern district of
Indian Territory; no appeal to Choctaw and Chickasaw Citizenship
Court.

William Patchert, opposite No. 1491, upon the final roll
of citizens by intermarriage of the Choctaw nation. Denied by
Commission in 1896 in case No. 1117; no appeal. Patents recorded.

Ella Reding, opposite No. 1490, upon the final roll of
citizens by intermarriage of the Choctaw nation. Admitted by Com-
mission in 1896 in case No. 1243; admitted by United States court
for central district of Indian Territory; no appeal to Choctaw and
Chickasaw Citizenship Court.

Arabella Kiefer, opposite No. 18916, upon the final roll
of citizens by blood of the Choctaw Nation. Admitted by Commission
in 1896 in case No. 1243; admitted by United States Court for cen-
tral district of Indian Territory; no appeal to Choctaw and Chick-
asaw Citizenship Court.

Angelina White, opposite No. 1403, upon the final roll
of citizens by intermarriage of the Choctaw nation. Denied by Com-

mission in 1896 in case No. 980; no appeal. Enrollment ordered by Department February 3, 1903 (I. T. D. 1130-1903).

David Ritter, opposite No. 16104, upon the final roll of citizens by blood of the Cheetaw nation. Admitted by Commission in 1896 in case No. 488; denied by Commission in 1896 in case No. 1107; admitted by United States Court for central district of Indian Territory; no appeal to Cheetaw and Chickasaw Citizenship Court.

Ida Crutchfield, Isa Crutchfield, Leuvinia Crutchfield, William Crutchfield and Loutitia Crutchfield, opposite Nos. 16105, 16107, 16108, 16109 and 16110, respectively, upon the final roll of citizens by blood of the Cheetaw Nation. Admitted by Commission in 1896 in case No. 488; admitted by United States court for central district of Indian Territory; no appeal to Cheetaw and Chickasaw Citizenship Court.

Everet Crutchfield, opposite No. 16106, upon the final roll of citizens by blood of the Cheetaw Nation. Born in 1887, and son of Ida Crutchfield, above mentioned. Was not before the Commission in 1896, and possesses no tribal status.

George W. Crutchfield, opposite No. 16111, upon the final

roll of citizens by blood of the Choctaw Nation. Born since 1896, and child of Ida Crutchfield, opposite No. 16105.

James T. Leard, opposite No. 1626, upon the final roll of citizens by intermarriage of the Choctaw nation. Denied by Commission in 1896 in case No. 1235; admitted by United States court for the central district of Indian Territory; denied by the Choctaw and Chickasaw Citizenship Court.

Robert L. Raben, opposite No. 1406, upon the final roll of citizens by intermarriage of the Choctaw Nation. Denied by Commission in 1896 in case No. 1017; no appeal. Patents recorded.

Sarah Herryman, opposite No. 1408, upon the final roll of citizens by intermarriage of the Choctaw Nation. Denied by Commission in 1896 in case No. 343; no appeal.

Nellie F. Douglas, opposite No. 18017, upon the final roll of citizens by blood of the Choctaw Nation. Denied by Commission in 1896 in case No. 11; no appeal. Patents recorded.

August Klugh, opposite No. 290, upon the final roll of citizens by intermarriage of the Choctaw nation. Denied by Commission in 1896 in case No. 323; no appeal. Patents recorded.

Henry Peabworth, opposite No. 9296, upon the final roll

of citizens by blood of the Chectaw nation. Denied by Commission in 1896 in case No. 1376; no appeal. Patents recorded.

Mary M. Bowling, opposite No. 1406, upon the final roll of citizens by intermarriage of the Chectaw Nation. Denied by Commission in 1896 in case No. 1031; no appeal. Patents recorded.

Alice E. James, Maggie E. James, Ellis E. James, Analeuria James and Evalena James, opposite Nos. 18450, 18451, 18452, 18453, and 18454, respectively, upon the final roll of citizens by blood of the Chectaw Nation. Denied by Commission in 1896 in case No. 1031; no appeal. Patents for nos. 18450, 18451, 18453, and 18454 recorded.

Chester C. Atwood, opposite No. 1406, upon the final roll of citizens by intermarriage of the Chectaw Nation. Denied by Commission in 1896 in case No. 1127; no appeal. Patents recorded.

William D. Paxton, opposite No. 1410, upon the final roll of citizens by intermarriage of the Chectaw nation. Denied by Commission in 1896 in case No. 882; no appeal. Patents recorded.

Charles A. Woodward, opposite No. 882, upon the final

roll of citizens by intermarriage of the Choctaw nation. Admitted by Commission in 1896 in case No. 522; denied by United States court for central district of Indian Territory; no appeal to the Choctaw and Chickasaw Citizenship Court. Homestead patent recorded.

Frederick R. Robinson, opposite No. 1531, upon the final roll of citizens by intermarriage of the Choctaw Nation. Admitted by Commission in 1896 in case No. 685; admitted by United States court for central district of Indian Territory; no appeal to Choctaw and Chickasaw Citizenship Court.

Virginia P. Mitchell, opposite No. 1515, upon the final roll of citizens by intermarriage of the Choctaw Nation. Denied by Commission in 1896 in case No. 369; no appeal. Patents recorded.

Andrew Deal, opposite No. 1473, upon the final roll of citizens by intermarriage of the Choctaw Nation. Denied by Commission in 1896 in case No. 77; no appeal.

Benjamin B. Gunter, opposite No. 1326, upon the final roll of citizens by intermarriage of the Choctaw Nation. Admitted by Commission in 1896 in case No. 287; denied by United States court for central district of Indian Territory; no appeal to Choctaw and Chickasaw Citizenship Court. Patents recorded.

Calvin G. Harris, opposite No. 1329, upon the final roll of citizens by intermarriage of the Choctaw Nation. Admitted by Commission in 1896 in case No. 423; denied by United States court for central district of Indian Territory; no appeal to Choctaw and Chickasaw Citizenship Court. Homestead patent recorded.

Lydia Ann Crowder, opposite No. 1412, upon the final roll of citizens by intermarriage of the Choctaw Nation. Denied by Commission in 1896 in case No. 742; no appeal.

Madell McGlare, opposite No. 1414, upon the final roll of citizens by intermarriage of the Choctaw Nation. Denied by Commission in 1896 in case No. 1326; no appeal.

Mary E. Robinson and Mary A. Trice, opposite Nos. 18856 and 18857, respectively, upon the final roll of citizens by blood of the Choctaw Nation. Denied by Commission in 1896 in case No. 641; no appeal. Patents for No. 18856 recorded.

Lucy McMurtry, opposite No. 1407, upon the final roll of citizens by intermarriage of the Choctaw nation. Denied by Commission in 1896 in case No. 1324; no appeal.

Eli W. Crowder, James Crowder, Katie B. Crowder and Finkie B. Crowder, opposite Nos. 18921, 18922, 18923, and 18924, respectively, upon the final roll of citizens by blood of the Choctaw nation. Denied by Commission in 1896 in case No. 762; no appeal.

John A. Crowder, opposite No. 18925, upon the final roll of citizens by blood of the Choctaw nation. Born in 1897, and son of Eli W. Crowder, opposite No. 18921. Patents recorded.

Henry Spitzerland, opposite No. 648, upon the final roll of citizens by intermarriage of the Choctaw Nation. Denied by Commission in 1896 in case No. 1581; no appeal. Patents recorded.

Robert A. Travis, opposite No. 340, upon the final roll of citizens by intermarriage of the Choctaw nation. Denied by Commission in 1896 in case No. 438; no appeal.

Mary Naran, opposite No. 1416, upon the final roll of citizens by intermarriage of the Choctaw nation. Denied by Commission in 1896 in case No. 330; no appeal. Patents recorded.

George W. Roberts, opposite No. 1219, upon the final roll of citizens by intermarriage of the Choctaw Nation. Admitted by Commission in 1896 in case No. 659; denied by United States court for central district of Indian Territory; no appeal to the Choctaw and Chickasaw Citizenship Court. Patents recorded.

Viccy Lewis, opposite No. 1476, upon the final roll of citizens by intermarriage of the Choctaw Nation. Admitted by Commission in 1896 in case No. 1239; admitted by United States court for central district of Indian Territory; no appeal to Choctaw and Chickasaw Citizenship Court. Patents recorded.

Ira L. Smith, opposite No. 1227, upon the final roll of citizens by intermarriage of the Choctaw Nation. Denied by Commission in 1896 in case No. 790; denied by United States court for central district of Indian Territory; no appeal to Choctaw and Chickasaw Citizenship Court. Patents recorded.

Hattie Freemy, opposite No. 1421, upon the final roll of citizens by intermarriage of the Choctaw Nation. Denied by Commission in 1896 in case No. 466; no appeal. Patents recorded.

Rosa E. Rigney, opposite No. 1478, upon the final roll of citizens by intermarriage of the Choctaw nation. Admitted by Commission in 1896 in case No. 708; admitted by United States court for central district of Indian Territory; no appeal to Choctaw and Chickasaw Citizenship Court. Patents recorded.

Josiah T. Marshall, opposite No. 1341, upon the final roll of citizens by intermarriage of the Choctaw nation. Admitted by Commission in 1896 in case No. 372; denied by United States court for the central district of Indian Territory; appeal to Choctaw and Chickasaw Citizenship Court dismissed on May 4, 1903, on general demurrer, in case No. 3 upon the McAlister docket.

Fannie Shalts, opposite No. 1423, upon the final roll of citizens by intermarriage of the Choctaw Nation. Denied by Commission in 1896 in case No. 1067; no appeal. Patents recorded.

Hattie A. Perkins, opposite No. 1027, upon the final roll of citizens by intermarriage of the Choctaw Nation. Denied by Commission in 1896 in case No. 884; no appeal. Patents recorded.

John T. Staten, opposite No. 1428, upon the final roll of citizens by intermarriage of the Choctaw nation. Denied by Commission in 1896 in case No. 1072; no appeal. Patents recorded.

Amelia Cheate, opposite No. 1359, upon the final roll of citizens by intermarriage of the Cheate Nation. Denied by Commission in 1896 in case No. 787; no appeal.

Eva Coleman, opposite No. 1364, upon the final roll of citizens by intermarriage of the Cheate Nation. Denied by Commission in 1896 in case No. 871; no appeal.

William F. Kelly, opposite No. 1430, upon the final roll of citizens by intermarriage of the Cheate Nation. Admitted by Commission in 1896 in case No. 1198; admitted by United States court for central district of Indian Territory; no appeal to the Cheate and Chickasaw Citizenship Court.

Mattie M. Russell, opposite No. 1353, upon the final roll of citizens by intermarriage of the Cheate Nation. Denied by Commission in 1896 in case No. 1116; no appeal.

Grever Randall, opposite No. 13923, upon the final roll of citizens by blood of the Cheate Nation. Admitted by Commission in 1896 in case No. 667; admitted by United States court for central district of Indian Territory; no appeal to Cheate and Chickasaw Citizenship Court.

Agnes Jones, opposite No. 18061, upon the final roll of citizens by blood of the Choctaw Nation. Denied by Commission in 1896 in case No. 1019; no appeal.

Martha Hyden, opposite No. 1809, upon the final roll of citizens by intermarriage of the Choctaw Nation. Denied by Commission in 1896 in case No. 1344; admitted by United States court for Southern district of Indian Territory; denied by Choctaw and Chickasaw Citizenship Court.

Wiley Adams, opposite No. 18027, upon the final roll of citizens by blood of the Choctaw Nation. Denied by Commission in 1896 in case No. 1128; no appeal.

Mary A. Foster, opposite No. 908, upon the final roll of citizens by intermarriage of the Choctaw Nation. Denied by Commission in 1896 in case No. 437; no appeal.

Jeannetta H. Bunkholts, opposite No. 1837, upon the final roll of citizens by intermarriage of the Choctaw Nation. Denied by Commission in 1896 in case No. 943; no appeal.

Selden T. Lindsay, opposite No. 1180, upon the final roll of citizens by intermarriage of the Choctaw Nation. Admitted by Commission in 1896 in case No. 28; denied by United States court for central district of Indian Territory; no appeal to Cho-

law and Chickasaw Citizenship Court. Patents recorded.

Henry A. Cummings, opposite No. 1464, upon the final roll of citizens by intermarriage of the Choctaw Nation. Admitted by Commission in 1896 in case No. 963; admitted by United States court for central district of Indian Territory; no appeal to the Choctaw and Chickasaw Citizenship Court. Ordered enrolled by Department April 1, 1906 (I. T. D. 3131-1906). Patents recorded.

Allen Beagles, opposite No. 1466, upon the final roll of citizens by intermarriage of the Choctaw Nation. Denied by Commission in 1896 in case No. 11; no appeal. Patents recorded.

William Newton Gann, opposite No. 1489, upon the final roll of citizens by intermarriage of the Choctaw Nation. Admitted by Commission in 1896 in case No. 1010; admitted by United States court for central district of Indian Territory; no appeal to the Choctaw and Chickasaw Citizenship Court.

John W. Carter, opposite No. 1543, upon the final roll of citizens by intermarriage of the Choctaw Nation. Denied by Commission in 1896 in case No. 983; no appeal.

Julia Gae, opposite No. 1859, upon the final roll of citizens by intermarriage of the Choctaw Nation. Denied by Commission in 1896 in case No. 1407; admitted by United States court for southern district of Indian Territory; no appeal to Choctaw and Chickasaw Citizenship Court.

Robert C. Merendon, opposite No. 16032, upon the final roll of citizens by blood of the Choctaw Nation. Denied by Commission in 1896 in case No. 1329; no appeal. Directed to be enrolled by Department April 5, 1906 (I. T. D. 8032-1904).

Martha J. McCahay, opposite No. 1614, upon the final roll of citizens by intermarriage of the Choctaw Nation. Denied by Commission in 1896 in case No. 1268; no appeal. Decision of Commissioner of June 5, 1906, granting application affirmed by Department October 30, 1906 (I. T. D. 21238-1906).

Nattie L. Armstrong, Layton M. Armstrong and Bessie D. Armstrong, opposite Nos. 16054, 16055 and 16056, respectively, upon the final roll of citizens by blood of the Choctaw Nation. Denied by Commission in 1896 in cases No. 477 and 478; admitted by United States court for Southern district of Indian Territory; denied by Choctaw and Chickasaw Citizenship Court. Decision of Commissioner of July 9, 1906, granting application affirmed by Department August 11, 1896 (I. T. D. 13700-1906).

Rebecca K. Armstrong, opposite No. 16057, upon the final roll of citizens by blood of the Choctaw Nation. Born in 1898 and child of Nattie L. Armstrong, opposite No. 16054.

Thomas J. Howard, Horace Howard, Lemmie Howard, Emory Howard, and Elmer Howard, opposite Nos. 16033, 16034, 16035, 16036

and 18037, respectively, upon the final roll of citizens by blood of the Cheetaw Nation. Denied by Commission in 1896 in case No. 1354; no appeal. Directed to be enrolled by Department April 6, 1906 (I. T. D. 1354-1904).

Bettie Parney Howard and Dora Lee Howard, opposite Nos. 16038 and 16039, respectively, upon the final roll of citizens by blood of the Cheetaw Nation. Born in 1897 and 1899, respectively, children of Thomas J. Howard, opposite No. 16033.

Carrie Howard, opposite No. 1576, upon the final roll of citizens by intermarriage of the Cheetaw Nation. Denied by Commission in 1896 in case No. 1354; no appeal. Wife of Thomas J. Howard, opposite No. 16033.

Gertrude Beaver, Clarence Beaver, Nellie Beaver and Myrtle Beaver, opposite Nos. 16040, 16041, 16042 and 16043, respectively, upon the final roll of citizens by blood of the Cheetaw Nation. Nos. 16040 and 16041 denied by Commission in 1896 in case No. 1354; no appeal. Nos. 16042 and 16043 born in 1898 and 1900, respectively, and children of Gertrude Beaver, opposite No. 16040. Ordered enrolled by Department April 6, 1906 (I. T. D. 1364-1904).

Burrell F. McLendon, John E. McLendon, Thomas McLendon, Ida M. McLendon, Ralph McLendon, Harry McLendon and Jennie McLendon,

opposite Nos. 16025, 16026, 16027, 16028, 16029, 16030, and 16031, respectively, upon the final roll of citizens by blood of the Choctaw Nation. All but Nos. 16030 and 16031 denied by Commission in 1896 in case No. 1271; no appeal. Nos. 16030 and 16031 born in 1896 and 1898, respectively, and children of No. 16028. Directed to be enrolled by Department April 6, 1906 (I.T.D. 6372-1904).

Bernard McLendon, opposite No. 1577, upon the final roll of citizens by intermarriage of the Choctaw Nation. Denied by Commission in 1896 in case No. 1271; no appeal. Wife of Surrell F. McLendon, opposite No. 16025.

George A. Bargarner, opposite No. 16112, upon the final roll of citizens by blood of the Choctaw Nation. Denied by Commission in 1896 in case No. 620; no appeal.

James S. Long, Joseph Long, Verbis Long, opposite Nos. 16003, 16004 and 16005, respectively, upon the final roll of citizens by blood of the Choctaw Nation. Placed on 1896 Choctaw Census Roll by Choctaw Revisionary Board without authority of law, as in William C. Thompson case. Ordered enrolled by Department January 19, 1906 (I. T. D. 3192-1905).

Columbus B. Astry, Lena Green and Teddy Green, opposite Nos. 16042, 16043 and 16044, respectively. Nos. 16042 and 16043 placed on 1896 Choctaw Census Roll by Choctaw Revisionary Board without authority of law as in William C. Thompson case. No. 16044 born

February 14, 1901; son of 16049. Record transmitted to Department December 21, 1906, for consideration in case of possible Ancestry.

CROGTAN MINGRE, ACT OF CONGRESS APPROVED

APRIL 26, 1906 (34 stats., 137).

Bettie Myrl Crowder, opposite No. 674, child of George W. Crowder, opposite No. 15906, upon the final roll of citizens by blood of the Choctaw Nation, and Parlee C. Crowder, opposite No. 1524 upon the final roll of citizens by intermarriage of the Choctaw Nation.

Rufus Clay Crowder, opposite No. 4, child of William J. Crowder, opposite No. 15699, upon the final roll of citizens by blood of the Choctaw Nation, and Josephine Crowder, opposite No. 1623, upon the final roll of citizens by intermarriage of the Choctaw Nation.

Fannie Jane Wright, opposite No. 333, child of J. W. Wright, non-citizen, and Betsey Wright, opposite No. 16912, upon the final roll of citizens by blood of the Choctaw Nation.

Lee Green, opposite No. 686, child of W. F. Green, non-citizen, and Laura Green, opposite No. 16049, upon the final roll of citizens by blood of the Choctaw Nation.

-23-

Ruth McLendon, opposite No. 706, child of Robert C. McLendon, opposite No. 10032, upon the final roll of citizens by blood of the Choctaw Nation, and Annie McLendon, a named citizen.

Ray D. McLendon, opposite No. 253, child of Barrell B. McLendon, opposite No. 10025, upon the final roll of citizens by blood of the Choctaw Nation, and Gertrude McLendon, opposite No. 1577, upon the final roll of citizens by intermarriage of the Choctaw Nation.

Jennie Louise Brandrick, opposite No. 724, child of Mary A. Trice, opposite No. 15857, upon the final roll of citizens by blood of the Choctaw Nation, and William M. Brandrick, non-citizen.

Hazel Calvin Beaver, Elsie Dawson Beaver and Herbert Howard Beaver, opposite No. 437, 438 and 439, respectively, children of Gertrude Beaver, opposite No. 10040 upon the final roll of citizens by blood of the Choctaw Nation, and Calvin Beaver, a non-citizen.

Effie Barnett, opposite No. 367, child of Amanda Isabella Supter, opposite No. 18646, upon the final roll of citizens by blood of the Choctaw Nation, and A. F. Barnett, a non-citizen.

Ellis A. Kiefer and Marana Kiefer, opposite Nos. 796 and 791, respectively, children of Ardella Kiefer, opposite No. 18916, upon the final roll of citizens by blood of the Chectaw Nation, and Charles Kiefer, a non-citizen.

Josephine Laflere Long, Francis Long and Jake Laflere Long, opposite Nos. 921, 609 and 922, respectively, children of Fannie Long, opposite No. 16003, upon the final roll of citizens by blood of the Chectaw Nation, and Lemmie Long, a non-citizen.

CHICKASAW BY BLOOD AND INTERMARRIAGE

Gustavus A. Hunsay, opposite No. 814, upon the final roll of citizens by intermarriage of the Chickasaw Nation. Admitted by Commission in 1896 in case No. 123; denied by United States court for southern district of Indian Territory; no appeal to the Chectaw and Chickasaw Citizenship Court. Patents recorded.

Sallie J. Hargis, opposite No. 426, upon the final roll of citizens by intermarriage of the Chickasaw Nation; denied by Commission in 1896 in case No. 234; no appeal.

John E. Gelashy, Linniel E. Gelashy and Hecie Gelashy,

opposite Nos. 4981, 4982 and 4983, respectively, upon the final roll of citizens by blood of the Chickasaw Nation. All admitted by Commission in 1896 in case No. 254; admitted by United States court for Southern district of Indian Territory; no appeal to the Choctaw and Chickasaw Citizenship Court. Decision of Commission of May 23, 1906, granting application affirmed by Department October 6, 1906 (I. T. D. 8148-1906).

Murray Milton Goldsby, opposite No. 4987, upon the final roll of citizens by blood of the Chickasaw Nation. Born in 1886, and son of John E. Goldsby, opposite No. 4984.

Joe Perry and Willard Perry, opposite Nos. 5013 and 5014, respectively, upon the final roll of citizens by blood of the Chickasaw Nation. Denied by Commission in 1896 in case No. 116; no appeal. Ordered enrolled as citizens by blood of the Chickasaw Nation by Department on October 10, 1906 (I. T. D. 18962-1906). The names of these persons formerly appeared opposite Nos. 267 and 268 upon the roll of Chickasaw freedmen, approved by the Secretary of the Interior December 12, 1902; and in the event their names are stricken from the approved roll of citizens by blood of the Chickasaw Nation, their names should be re-instated upon the Chickasaw freedmen roll.

Benjamin J. Vaughan, opposite No. 303, upon the final roll of citizens by intermarriage of the Chickasaw Nation. Admitted by Commission in 1896 in case No. 92; admitted by United States court for Southern district of Indian Territory; no appeal to the Choctaw and Chickasaw Citizenship Court. Patents recorded.

Edward A. Vaughan, Grever Cleveland Vaughan and Oscar E. Vaughan, opposite Nos. 4968, 4970 and 4971, respectively, upon the final roll of citizens by blood of the Chickasaw Nation. Admitted by Commission in 1896 in case No. 92; affirmed by United States court; no appeal to Choctaw and Chickasaw Citizenship Court. Patents recorded.

William T. Lancaster, opposite No. 412; upon the final roll of citizens by intermarriage of the Chickasaw Nation. Admitted by Commission in 1896 in case No. 92; appealed to United States court and affirmed; no appeal to Choctaw and Chickasaw Citizenship Court. Patents recorded.

John W. Archer, opposite No. 323, upon the final roll of citizens by intermarriage of the Chickasaw Nation. Admitted by Commission in 1896 in case No. 178; appealed to United States court for Southern district of Indian Territory and affirmed; no appeal to Choctaw and Chickasaw Citizenship Court.

James W. England, opposite No. 631, upon the final roll of citizens by intermarriage of the Chickasaw Nation. Denied by Commission in 1896 in case No. 55; appealed to United States court for Southern district of Indian Territory, and appeal dismissed. Action of the Commissioner of October 28, 1905, annulling applicant affirmed by the Department January 9, 1906 (I. T. D. 17405-1906).

Thomas St. John, opposite No. 596, upon the final roll of citizens by intermarriage of the Chickasaw Nation. Denied by Commission in 1896 in Choctaw case No. 1028; no appeal. Patents recorded.

John Quincy Adams, opposite No. 631, upon the final roll of citizens by intermarriage of the Chickasaw Nation. Admitted by Commission in 1896 in case No. 2; denied by United States court for Southern district of Indian Territory; no appeal to Choctaw and Chickasaw Citizenship Court.

Mary A. Shanks, opposite No. 639, upon the final roll of citizens by intermarriage of the Chickasaw nation. Denied by Commission in 1896 in case No. 119; admitted by United States court for Southern district of Indian Territory; no appeal to Choctaw and Chickasaw Citizenship Court.

Clay Mosey, opposite No. 426, upon the final roll of citizens by intermarriage of the Chickasaw nation. Admitted by Commission in 1894 in case No. 141; admitted by United States court for Southern District of Indian Territory; no appeal to the Choctaw and Chickasaw Citizenship Court. Directed to be enrolled by Department April 1, 1908 (I. T. D. 3123-1908) .

The Indian Office, to which was referred your letter of the 27th ultimo for report, concurs in letter of March 2, 1907, in your recommendation that such names be stricken from the rolls.

The Department is compelled to rely upon your investigation, as the act of April 26, 1906 (34 Stat., 137), provides in section 2 that the rolls of the Choctaw and Chickasaw nations shall be completed on or before the 4th day of March, 1907, and that the Secretary of the Interior shall have no jurisdiction to approve the enrollment of any person after such date. Assuming, therefore, that your information is correct, the names of the persons mentioned, not heretofore stricken from the partial rolls, are stricken from such rolls this day, notwithstanding any decision that may have been made by the Department in favor of such persons.

As recommended by you, the names of Joe and Willard Perry have been reinstated upon the Chickasaw Freedman roll, opposite Nos. 267 and 268.

The Department concurs in your views relative to the following persons:

Emma Mitchell and Allen Yates Mitchell, opposite Nos. 18655 and 18656, respectively, upon the final roll of citizens by blood of the Choctaw Nation. Denied by Commission in 1896 in case No. 1299; no appeal. Patents recorded.

David E. Strickland and Nertie P. Strickland, opposite Nos. 15919 and 15920, upon the final roll of citizens by blood of the Choctaw Nation. Denied by Commission in 1896 in case No. 941; no appeal.

Hettie P. McMurtry, and Martha E. McMurtry, opposite Nos. 15448 and 15449, respectively, upon the final roll of citizens by blood of the Choctaw Nation. Denied by Commission in 1896 in case No. 1324; no appeal. Homestead patents recorded.

Rufus Satterfield, opposite No. 13930, upon the final roll of citizens by blood of the Choctaw Nation. Denied by Commission in 1896 in case No. 1062; no appeal.

Charles William Thompson, opposite No. 4968, on the final roll of citizens by blood of the Chickasaw Nation. Admitted by Commission in 1896 in case No. 162; admitted by United States court

for Southern district of Indian Territory; no appeal to Choctaw and Chickasaw Citizenship Court.

You state that such persons are minor children of duly enrolled citizens by blood of the Choctaw or Chickasaw Nation, and that the names of one parent of each of these children appears upon the final roll of citizens by blood of the Choctaw or Chickasaw Nation approved by the Department prior to March 3, 1906, and that while under the opinion of the Attorney-General of February 19, 1907, it would appear that these children are not entitled to enrollment as citizens by blood of the Choctaw or Chickasaw Nation under the acts of June 26, 1898 (30 Stat., 495), and July 1, 1902 (32 Stat., 641), you believe that such children can be enrolled under a provision of the act of March 3, 1903 (33 Stat., 1069), which is as follows:

"That the Commission to the Five Civilized Tribes is hereby authorized for sixty days after the date of the approval of this Act to receive and consider applications for enrollment of infant children born prior to September twenty-fifth, nineteen hundred and two, and who were living on said date, to citizens by blood of the Choctaw and Chickasaw tribes of Indian and whose enrollment has been approved by the Secretary of the Interior prior to the date of the approval of this Act, and to enroll and make allotments to such children."

In this the Department concurs, and as you suggest, the

names of these children will be permitted to stand as they are at present on the rolls of citizens by blood of these two nations.

If by inadvertence the name of anyone has been left on any partial roll after decision adverse to him was made by the Department prior to March 3, 1907, and since the opinion of the Attorney-General referred to, the name of such person will be stricken from the roll as of this date.

A copy of Indian Office letter of March 2, 1907, is inclosed.

Respectfully,

H. A. Hitchcock,

Secretary.

1 inclosure.

7-6014

Muskogee, Indian Territory, March 29, 1907.

Mattie L. Armstrong,

Chickasha, Indian Territory.

Dear Madam:

You are hereby advised that in accordance with an opinion of the Attorney General of the United States of February 19, 1907, the Secretary of the Interior on March 4, 1907, directed the cancellation of your enrollment and the enrollment of Layten B. Armstrong, Bonnie D. Armstrong and Rebecca K. Armstrong upon the roll of citizens by blood of the Choctaw Nation.

Your names have accordingly been stricken from the copy of said roll in the possession of this office.

Respectfully,

Acting Commissioner.

7-6014

Muskogee, Indian Territory, April 2, 1907.

W. G. Armstrong,

Chickasha, Indian Territory.

Dear Sir:

Receipt is hereby acknowledged of your letter of March 27, 1907, relative to the cancellation of the enrollment of persons under an opinion of the Attorney General of the United States in which you ask to be advised if your wife and children are within the purview of said opinion.

In reply to your letter you are advised that on February 19, 1907, the Attorney General of the United States rendered an opinion in which it was held that the action of the Choctaw and Chickasaw Citizenship Court was final.

It appearing from the records of this office that your wife and children Layton B. and Bonnie D. Armstrong were denied by the Choctaw and Chickasaw Citizenship Court November 28, 1904, the Secretary of the Interior on March 4, 1907, directed the cancellation of the enrollment of Mattie L. Armstrong, Layton B., Bonnie D. and Rebecca E. Armstrong and their names have accordingly been cancelled upon the roll of citizens by blood of the Choctaw Nation.

Respectfully,

Acting Commissioner.

copy of letter (10000)

Land

RAH

00220-04
10000-04
JRM

Department of the Interior,
Office of Indian Affairs,

Washington, D. C. Feb. 2, 1900.

Respectfully referred to the Commissioner
to the Five Civilized Tribes, for
early report as to matters not of record
as being in this office.

John Francis Jr.

Acting Chief Land Division.

1 copy of letter (10000)

D C N 277-1909

W.S.A.

J.W.H.

DEPARTMENT OF THE INTERIOR,

WASHINGTON.

February 25, 1909.

The Commissioner
of Indian Affairs.

Sir:

The Department has had under consideration for some time a schedule, prepared in the office of the Commissioner to the Five Civilized Tribes, which was originally filed in your office December 30, 1908, as No. 88228, purporting to be a list of persons whose names were stricken from the approved rolls of citizens of the Five Civilized Tribes without prior notice. Action has already been taken by the Department upon a majority of the names mentioned in said list, but there is a comparatively small number of cases as to which the information before the Department is not sufficiently complete to warrant present action.

The names of the parties to cases of the latter class having applications for enrollment as citizens of the Choctaw Nation are listed below, and you are requested to cause further report to be made as to each, calling upon the Commissioner to the Five Civilized Tribes, if necessary, for additional information and papers.

It is also desired that the record in each of said cases be forwarded with separate report thereon.

CHOCTAWS BY FLOOD.

Name	Roll No.
Armstrong, Rebecca F.	16,057
Armstrong, Bennie D.	16,056
Armstrong, Layton B.,	16,055
Armstrong, Mattie L.,	16,054
Padier, Ira	10,112
Turner, Martin Franklin,	15,369
Turner, Myrtle L.,	15,370

CHOCTAWS BY MARRIAGE.

Duer, Thomas W.,	1,556
Hyden, Georgia,	1,601
Hyden, Martha,	1,609
Marshall, Josiah T.,	1,341
Swadley, William T.,	1,634

In connection with Josiah T. Marshall, it should be shown whether his enrollment by the Department was based upon a marriage contracted subsequent to the decision against him by the Dawes Commission under the Act of June 10, 1896. The Department also desires to be advised, in connection with the case of William T. Swadley, what information, if any, is of record concerning Minerva F. Swadley.

Notwithstanding partial reports have been made heretofore, with varying degrees of completeness, it is desired that all material information affecting each case be brought together in

a single report showing particularly, --

1. What tribal recognition, if any, has been accorded the applicants, whether by enrollment, act of council, decree of court, or otherwise,
2. The action by the Commission (or Commissioner) to the Five Civilized Tribes, the Commissioner of Indian Affairs, and the Secretary of the Interior, together with the dates of such action.

NOTE: This information is desired in order that it may be apparent to what extent, if at all, the Department should now be governed by its ruling of August 15, 1907 (D-299) in the case of Serona Bullock, et al.

3. What action, if any, was taken under the Act of June 10, 1896, (a) by the Commission to the Five Civilized Tribes, and (b) by the United States court,
4. Whether the case was appealed or transferred to the Choctaw and Chickasaw Citizenship court and, if so, whether specific judgment was rendered by said court,
5. Whether certificates of allotment or patents were issued, delivered, or recorded in favor of any of the applicants,
6. What attempt, if any, was made, directly or indirectly, to give the applicants and their heirs notice of the proceedings looking to the cancellation of

their names from the approved rolls; also what evidence is now available showing that such attempt was made.

7. Whom and for what reason did the Department strike or attempt to strike their names from the approved rolls.

Very respectfully,

(Signed) Jesse K. Wilson

Assistant Secretary.

Muskogee, Oklahoma, March 12, 1909.

Subject:
Report on Departmental
letter of February 25,
1909, as to Mattie L.
Armstrong, et al.

The Honorable,

The Commissioner of Indian Affairs,

Sir:

March 2, 1909 (Land 88228-1908, 16008-1909) the Indian Office referred to this office copy of Departmental communication of February 25, 1909, asking for a full report on certain Choctaw cases therein named, among which were Mattie L. Armstrong and her children.

Reporting in this matter I have the honor to advise that it appears from the record of this office that on September 7, 1896, in the case entitled W. G. Armstrong, et al. versus the Choctaw Nation, 1896 Choctaw Citizenship Case Numbers 477 and 478, application was made to the Commission to the Five Civilized Tribes, under the provisions of the Act of Congress approved June 10, 1896 (29 Stat., 321) for admission to citizenship in the Choctaw Nation of W. G. Armstrong as a citizen by intermarriage and for the admission of Mattie L. Armstrong, as Mattie Lee Armstrong, Layton B. Armstrong, as Layton Buford Armstrong, and Bonnie D. Armstrong, as Bonny Durant Armstrong, as citizens by blood of said

nation. On December 2, 1896 the Commission denied this application and from this decision an appeal was taken to the United States Court for the Southern District of Indian Territory, which court, in the case entitled Mattie Lee Armstrong, et al. versus the Choctaw Nation, reversed the decision of said Commission and admitted William G. Armstrong as a citizen by intermarriage of the Choctaw Nation, and Mattie Lee Armstrong, Layton Buford Armstrong and Bonnie Durant Armstrong as citizens by blood of the Choctaw Nation. December 21, 1897.

December 17, 1902, the Choctaw and Chickasaw Citizenship Court, created under the provisions of the act of Congress approved July 1, 1902 (32 Stat., 641), "set aside, annulled, vacated and held for naught" the judgment of the United States Court for the Southern District of the Indian Territory, admitting the above named persons to citizenship in the Choctaw Nation.

This cause was subsequently certified to the Choctaw and Chickasaw Citizenship Court for a trial de novo, and on November 28, 1904, said court, in the case entitled "Mattie Lee Armstrong, et al. vs. Choctaw and Chickasaw Nations" Case Number 59 on the Tishomingo Docket, decreed that the petition of the plaintiffs be denied and that they be declared not citizens of the Choctaw Nation and not entitled to any rights whatever flowing therefrom.

January 19, 1905, the Commission to the Five Civilized

dismissed the application for the enrollment of Rebecca K. Armstrong, minor child of W. G. and Mattie Lee Armstrong, born since the date of the original application to the Commission to the Five Civilized Tribes under the act of Congress approved June 10, 1896, for the reason that the applicant's mother had been denied citizenship in the Choctaw Nation by a decree of the Choctaw and Chickasaw Citizenship Court.

April 1, 1905 (I T D 12958-1904,2909-1905) the Department requested this office to investigate and report as to the admission of the applicants by the Choctaw Council in November 1895, and on April 17, 1905, a detailed report was rendered, showing that on November 8, 1895, Jeff Gardner, then Principal Chief of the Choctaw Nation, approved an act of the Choctaw Council admitting, among others, Mattie Lee Armstrong and her children, Bonnie Durant Armstrong and Layton Armstrong to all the rights and privileges of citizenship in the Choctaw Nation.

Subsequent to this action of the Choctaw Council Mattie Lee Armstrong and her two minor children were recognized and enrolled by the tribal authorities of the Choctaw Nation as citizens of that tribe, their names appearing on the 1896 census roll of the Choctaw Nation, as residents of the Chickasaw District.

As to W. G. Armstrong, it appears that he was married to Mattie Lee Armstrong, in Wise County, Texas, October 21, 1885 and there is nothing in the record to show that he was ever mar-

ried to his Choctaw wife in conformity with the laws, customs and usages of the Choctaw Nation. His name, however, appears upon the 1896 Choctaw Census Roll, Chickasaw District, as an intermarried citizen.

May 2, 1906 (I T D 2905, 5638-1906) the Department, after reviewing the report of the Commission of April 17, 1905, directed that the application for the enrollment of the above named applicant's be adjudicated upon its merits, in accordance with the rulings of the Department in the cases of Wiley Adams and Clay McCoy.

Accordingly on June 4, 1906 proceedings were had in this case and on July 9, 1906, a decision was rendered by the Commissioner to the Five Civilized Tribes, in accordance with the opinions of the Assistant Attorney General for the Department of the Interior of February 10, 1905 (I T D 10353-1904) and December 8, 1905 (I T D 3623-1905) in the case of Lula Vest, granting the application for the enrollment of Mattie L. Armstrong, Layton B. Armstrong, Bonnie D. Armstrong and Rebecca K. Armstrong as citizens by blood of the Choctaw Nation and denying the application for the enrollment of W. G. Armstrong as an intermarried citizen of said nation, and on the same date, the record of proceedings, together with the decision, was transmitted to the Department.

August 6, 1906 (Land 5865, 65620-1906, the Commissioner of Indian Affairs recommended favorable action on the Commissioner's decision of July 9, 1906, and August 11, 1906 (I T D 13700-1906)

the Department affirmed the said decision, enrolling Mattie L. Armstrong, Layton B. Armstrong, Bonnie B. Armstrong and Rebecca K. Armstrong and directed this office to place their names upon the final rolls of citizens by blood of the Choctaw Nation.

The action of this office adverse to W. G. Armstrong was also affirmed by the Department.

July 27, 1906, there was forwarded to the Department a schedule of citizens by blood of the Choctaw Nation upon which appeared the names of Mattie L. Armstrong, Layton B. Armstrong, Bonnie B. Armstrong and Rebecca K. Armstrong, at Numbers 16054, 16055, 16056, and 16057 respectively, which was approved by the Secretary of the Interior August 23, 1906.

February 27, 1907, in response to Departmental telegram of February 23, 1907, this office reported as to the persons falling within the scope of the opinion of the Attorney General of the United States of February 19, 1907 and said report included the names of Mattie L. Armstrong and her children, Layton B., Bonnie B. and Rebecca K. Armstrong, and on March 4, 1907 (I T D 7794-1907) the Secretary of the Interior cancelled their enrollment and directed the elimination of their names from the copies of the roll in possession of this office.

It does not appear that selection of allotment has been made in behalf of any of the persons above named.

I have further to report that it does not appear that any

8

attempt was made, either directly or indirectly to give notice to Mattie L. Armstrong and her children of the proceedings looking to the cancellation of their names from the approved roll of citizens by blood of the Choctaw Nation.

Respectfully,

Commissioner.

AB

D 383-1909

DEPARTMENT OF THE INTERIOR,

WASHINGTON.

March 25, 1909.

File 5-51

Cherokee,
Creek
Choctaw.

The Commissioner to the
Five Civilized Tribes.

Sir:

There are inclosed herewith, for report and recommendation, fourteen letters from various persons relating to certain Indian citizenship cases.

In these cases it is to be determined whether any action should be taken pursuant to the opinion of the Supreme Court of November 30, 1906, in the case of John E. Goldsby.

Separate reports should be rendered in each of these cases. The inclosed letters relating thereto are identified as follows:

1. From Charles L. Shockley of Mannsville, Oklahoma, dated March 7, 1909, relating to the enrollment of himself and the members of his family as citizens of the Choctaw Nation.
2. From Messrs. White and Hale, Lawyers, Poteau, Oklahoma, dated January 18, 1909, relating to the enrollment of Nora V. Powell, as an intermarried Choctaw.
3. From Messrs. White and Hale, Lawyers, Poteau, Oklahoma, dated January 29, 1909, relating to the Choctaw Intermarriage case of Nora Powell.

4. From Silas Sharp, by J. O. Peel of McAlester Oklahoma, as attorney and agent, undated, received by the Department January 11, 1909, relating to the Choctaw case of Silas Sharp, et al.

5. From Robbie J. Samuels Harrison of Colliyer, Kansas, dated February 29, 1909, relating to the enrollment of himself (and perhaps others) as Cherokee (with 2 cent stamp).

6. Letter dated March 12, 1909; writer and subject same as in No. 5 above.

7. From William Hall, by J. O. Peel of McAlester, Oklahoma, as agent and attorney, undated, received by Department January 11, 1909, relating to the Choctaw cases of William M. Hall, Mary Felling White, Louis B. Hall, Laura C. Burrows, John E. White, Annie Anglaw, Winnie L. Livingstone, and their children.

8. From Mars and Mars, attorneys-at-law, Sapulpa, Oklahoma, dated January 15, 1909, relating to the Creek case of Gussie Higdon.

9. From Hon. Archibald Bonds of Claremore, Oklahoma, dated January 7, 1909, relating to the Cherokee case of Ora M. Bonds, see Camp.

10. Letter, dated January 23, 1909; subject and writer same as in No. 9 above.

11. From Malinda G. Satterfield of Woolsey, Oklahoma, dated January 7, 1909, relating to her enrollment as an Indian citizen, tribe not stated, but probably a Choctaw or Chickasaw.

12. From David C. Ward, by J. O. Peel of McAlester, Oklahoma, as attorney and agent, undated, received by Department January 11, 1909, relating to the Choctaw case of David C. Ward, et al.

13. From J. O. Peel, McAlester, Oklahoma, dated February 3, 1909, relating to the Choctaw case of Alexander Beal, William Hall, et al. and D. J. Ward, et

14. From W. E. Field, attorney-at-law, Washington, D. C. dated February 15, 1909, relating to the Choctaw cases of Martin P. and Myrtle Turner, Selden P. Lindsay, Mattie L. Armstrong, et al., William Hall, et al., Silas Sharp, et al., D. J. Ward (or D. J. Ward) et al.

It is desired that, in preparing the reports herein requested, you follow the general instructions, so far as the same are applicable, contained in departmental letter of March 15, 1909 (File 5-51), and that such reports be transmitted through the Indian Office to the end that they may be forwarded with the recommendation of the Commissioner of Indian Affairs.

Very respectfully,

(Signed) Frank Pierce.

First Assistant Secretary.

14 enclosures.

(Send direct; copy to Indian Office).

M.P.U.

7-6014
J.W.H.
J.W.H.
W.C.P.
F.W.L.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

June 15, 1909.

D-7292
Choctaw File 5-51.

The Commissioner to the

Sir:

Enclosed herewith is a copy of a letter of even date addressed to the Commissioner of Indian Affairs authorizing him to erase the words and interlineations purporting to cancel the names of Mattie L., Layton B., and Rebecca K. Armstrong from the approved rolls of the Choctaw Nation. You are authorized and directed to cause like action to be taken in connection with their names with respect to the rolls in your custody, taking due care that the notation shall be the same as that provided for in letter to the Commissioner of Indian Affairs referred to above.

Very respectfully,

Frank Pierce.

First Assistant Secretary.

Encl.

M.P.U.

7-6014
J.W.H.
J.W.H.
W.C.P.
F.W.L.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

June 15, 1909.

D-7292
Choctaw File 5-51.

The Commissioner to the
Five Civilized Tribes.

Sir:

Enclosed herewith is a copy of a letter of even date addressed to the Commissioner of Indian Affairs authorizing him to erase the words and interlineations purporting to cancel the names of Mattie L., Layton B., and Rebecca K. ~~Armstrong~~ from the approved rolls of the Choctaw Nation. You are authorized and directed to cause like action to be taken in connection with their names with respect to the rolls in your custody, taking due care that the notation shall be the same as that provided for in letter to the Commissioner of Indian Affairs referred to above.

Very respectfully,

Frank Pierce.

First Assistant Secretary.

Encl.

W.T.M.

J.W.H.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

COPY. June 15, 1909.

D-7292.
Choctaw File 5-51.

The Commissioner
of Indian Affairs.

Sir: The Department has considered your office report of May 14, 1909, with its enclosures, relating to the enrollment of Mattie L., Layton B., Bonnie D. and Rebecca K. Armstrong as citizens by blood of the Choctaw Nation.

The records of the Department show that the names of said persons were placed upon a schedule of citizens by blood of said nation prepared by the Commissioner to the Five Civilized Tribes, and that said schedule was regularly approved by the Secretary of the Interior, whereby it became a part of the approved rolls of citizens by blood of the Choctaw Nation.

As the names of said persons were stricken from the approved rolls without notice or opportunity for hearing, your office considers that their case falls within the rule, announced by the Supreme Court in its decision of November 30, 1908 (211 U.S., 249), in the Goldsby case, and that, therefore, they should be restored to the status of recognized citizens of said nation.

The Department is of opinion that the Goldsby and Armstrong

cases are analogous in all material respects. Obviously, all that was said in the Goldsby case on the constitutional rights of the claimant applies with equal force to the rights of the applicants in the Armstrong case, there being a lack of due process of law in the latter case if in the former. Moreover, it is clear that whatever was said in the Goldsby decision respecting the power of the Secretary of the Interior in the premises is equally applicable with respect to his power to cancel the names of the members of the Armstrong family from the approved rolls.

The Armstrong case was unlike the Goldsby case in one respect which was not, however, of vital importance. A specific decree was rendered by the Choctaw-Chickasaw Citizenship Court denying the members of the Armstrong family the right to enrollment, whereas, no such decree was rendered in the Goldsby case. Nevertheless, it appears from the decision of the Supreme Court in the latter case that the Attorney General took the position that Goldsby came within the terms of the decision rendered in the "test case" by said court, and that by reason thereof his right to enrollment was completely barred. If such was the effect of the decision in the "test case", I am unable to see that Goldsby's claim would have been more completely barred by a specific decree rendered by the same tribunal. For the same reason, it is not apparent that the specific decree in the Armstrong case affords any additional cause for denying them the relief which they

3--

now seek.

You are, therefore, requested to cause the words and interlineations purporting to cancel their names from the rolls in your custody to be erased, and the following notation placed thereon, as in the manner outlined in Departmental letter of January 19, 1909 (File 51):

"Words and lines purporting cancellation erased by authority of Departmental letter of 1909. (File 5-51)."

Similar instructions will be issued to the Commissioner to the Five Civilized Tribes by letter of even date concerning the copy of the rolls in his custody. This letter will also be authority for like action concerning rolls in the custody of the Secretary of the Interior.

The Department also concurs in your recommendation that no action be taken looking to the enrollment of William G. Armstrong, husband of Mattie L. Armstrong, since it appears that the Department affirmed the decision of the Commissioner to the Five Civilized Tribes of July 9, 1906, denying his application for enrollment as an intermarried citizen of the Choctaw Nation.

The papers are returned herewith for the files of your office.

Very respectfully,

(Signed) Frank Pierce.
First Assistant Secretary.

Enclosures.

7-6814

Muskogee, Oklahoma, June 23, 1909.

Mrs. Mattie L. Armstrong,

Chickasha, Oklahoma,

Maiden:

I am instructed by the Department of the Interior that the case of yourself and your children, Layton E. Armstrong, Dennis D. Armstrong and Rebecca E. Armstrong, falls within the principles of the decision of the Supreme Court of the United States in the case of John M. Galsbury et al., seeking to have their names restored to the rolls of citizens of the Choctaw and Chickasaw Nations, and that the notations striking your names from the roll of citizens by blood of the Choctaw Nation shall be erased and that you have all the rights to a Homestead and payments enjoyed by other citizens as if no attempt had ever been made to cancel your names from this roll.

Said instructions have been carried out by this office, and you are now advised that the status of your names on the approved roll of citizens of the Choctaw Nation and of your allotment selection in said nation is the same as prior to March 4, 1907, when the Secretary of the Interior directed that your names be stricken from the roll.

Respectfully,

D 3/3-1909

Mattie L. Armstrong

Muskogee, Oklahoma, May 4, 1909.

subject:

Report on Departmental letter of March 25, 1909, relative to inquiry of W. E. Field as to Martin Franklin Turner, et al. Mattie Armstrong, et al. and Silas Sharp, et al.

The Honorable,

The Secretary of the Interior,

Sir:

I have the honor to acknowledge receipt of Departmental letter of March 25, 1909 (File 5-81), inclosing, for report and recommendation, fourteen letters from various persons relative to Indian citizenship claims. In these cases it is to be determined whether any action should be taken pursuant to the opinion of the Supreme Court of November 30, 1908, in the case of John E. Goldsby.

Among these letters is one from W. E. Field, Attorney at law, Washington, D. C. dated February 15, 1909, relating to the Choctaw cases of Martin F. and Myrtle Turner, Selden P. Lindsay, Mattie L. Armstrong, et al. Silas Sharp, et al. and I have the honor to state that on March 12, 1909, a full report was transmitted concerning the case of Martin Franklin Turner and Myrtle L. Turner; on the same date a report was submitted relative to the case of Mattie L. Armstrong, et al. and on

Secretary 2

April 7, 1909, a report was made as to the Mississippi Cherokee case of Elias Sharp, et al. which was the subject of an earlier inquiry from J. O. Peel, McAlester, Oklahoma, which was received by the Department January 11, 1909, and also inclosed with Departmental letter of March 25, 1908, as Number 4 referred to in said letter.

The other cases referred to in letter of W. S. Field of February 15, 1909, will be made the subject of separate reports to the Department.

Respectfully,

Commissioner.

Through the Commissioner
of Indian Affairs.

AB

-COPY)

1-41205

Land-
Population
98069-1909
J. E. D.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

Dec. 11, 1909.

Enrollment cases
of Mattie Shockley,
et al, and Lulu
West, et al.

The Commissioner

to the Five Civilized Tribes, Muskogee, Oklahoma.

Sir:

Referring to your report of April 14, 1909, relative to the Choctaw enrollment cases of Mattie Shockley, et al, and Lulu West, et al, you are advised that on December 7, 1909, the Department held that in all material respects the claims of certain of the applicants in these cases were similar to that of Minerva P. Swadley, in which a decision adverse to the applicant was rendered by the Department on August 9, 1909, and therefore concluded that no further action should be taken looking to the enrollment of the applicants therein.

The Department also held that no favorable action should be taken concerning Felix K. West and the other applicants mentioned on the second page of Office letter of July 26, 1909.

You are requested to notify the applicants or their attorneys. A copy of Department decision of December 7, 1909, is transmitted herewith for your information

L-94069-2.

-2-

and salaries. A copy of Office letter of July 26, 1902, is also inclosed for your information.

Very respectfully,

(Signed) C. F. House,

Chief Clerk.

GNK-10
6524.

Commissioner to the Five Tribes.
No. 2110. Received Dec. 13, 1909.

Indian Office,
Hauke,
Washington, D. C.
Dec. 11, 1909.

Advised that the Department
declines to take any action look-
ing to the enrollment of Mattie
Shockley, et al and Lulu West,
et al, as Choctaws.

(COPY)

1-41205

Land-
Population
98069-1909
J. E. D.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

Dec. 11, 1909.

Enrollment cases
of Mattie Shockley,
et al, and Lulu
West, et al.

The Commissioner

to the Five Civilized Tribes, Muskogee, Oklahoma.

Sir:

Referring to your report of April 14, 1909, relative to the Choctaw enrollment cases of Mattie Shockley, et al, and Lulu West, et al, you are advised that on December 7, 1909, the Department held that in all material respects the claims of certain of the applicants in these cases were similar to that of Minerva F. Swadley, in which a decision adverse to the applicant was rendered by the Department on August 9, 1909, and therefore concluded that no further action should be taken looking to the enrollment of the applicants therein.

The Department also held that no favorable action should be taken concerning Felix K. West and the other applicants mentioned on the second page of Office letter of July 26, 1909.

You are requested to notify the applicants or their attorneys. A copy of Department decision of December 7, 1909, is transmitted herewith for your information.

L-98867-2.

and guidance. A copy of Office letter of July 26, 1909, is also enclosed for your information.

Very respectfully,

(Signed) G. F. House.

Chief Clerk.

ENK-10
6524.

Commissioner to the Five Tribes.
No. 2110. Received Dec. 13, 1909.

Indian Office,
Hauke,
Washington, D. C.
Dec. 11, 1909.

Advises that the Department
declines to take any action look-
ing to the enrollment of Mattie
Shockley, et al and Lulu West,
et al, as Choctaws.

-COPY)

1-41205

Land-
Population
18069-1909
J. E. D.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

Dec. 11, 1909.

Enrollment cases
of Mattie Shookley,
et al, and Lulu
West, et al.

The Commissioner

to the Five Civilized Tribes, Muskogee, Oklahoma.

Sir:

Referring to your report of April 14, 1909, relative to the Choctaw enrollment cases of Mattie Shookley, et al, and Lulu West, et al, you are advised that on December 7, 1909, the Department held that in all material respects the claims of certain of the applicants in these cases were similar to that of Minerva F. Swadley, in which a decision adverse to the applicant was rendered by the Department on August 9, 1909, and therefore concluded that no further action should be taken looking to the enrollment of the applicants therein.

The Department also held that no favorable action should be taken concerning Felix K. West and the other applicants mentioned on the second page of Office letter of July 26, 1909.

You are requested to notify the applicants or their attorneys. A copy of Department decision of December 7, 1909, is transmitted herewith for your information.

L-20047-2

and guidance. A copy of Office letter of July 26, 1909, is also inclosed for your information.

Very respectfully,

(Signed) C. F. McKee.

Chief Clerk.

CHK-10
6524.

Commissioner to the Five Tribes.

No. 2110. Received Dec. 13, 1909.

Indian Office,

Haute,

Washington, D. C.

Dec. 11, 1909.

Advises that the Department declines to take any action looking to the enrollment of Mattie Shockley, et al and Lulu West, et al, as Choctaws.

-COPY)

1-41205

Land-
Population
08069-1909
J. E. D.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

Dec. 11, 1909.

Enrollment cases
of Mattie Shockley,
et al, and Lulu
West, et al.

The Commissioner

to the Five Civilized Tribes, Muskogee, Oklahoma.

Sir:

Referring to your report of April 14, 1909, relative to the Choctaw enrollment cases of Mattie Shockley, et al, and Lulu West, et al, you are advised that on December 7, 1909, the Department held that in all material respects the claims of certain of the applicants in these cases were similar to that of Minerva V. Swadley, in which a decision adverse to the applicant was rendered by the Department on August 9, 1909, and therefore concluded that no further action should be taken looking to the enrollment of the applicants therein.

The Department also held that no favorable action should be taken concerning Felix K. West and the other applicants mentioned on the second page of Office letter of July 26, 1909.

You are requested to notify the applicants or their attorneys. A copy of Department decision of December 7, 1909, is transmitted herewith for your information.

L-2000002.

and guidance. A copy of the letter of July 25, 1909, is also inclosed for your information.

Very respectfully,

(Signed) C. F. Evans.

Chief Clerk.

CHK-10
4524.

Commissioner to the Five Tribes.
No. 2110. Received Dec. 13, 1909.

Indian Office,
Bauke,
Washington, D. C.
Dec. 11, 1909.

Advises that the Department
declines to take any action look-
ing to the enrollment of Mattie
Shookley, et al and Lulu West,
et al, as Choctaws.

-COPY)

1-41205

Land-
Population
1906-1909
J. E. D.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

Dec. 11, 1909.

Enrollment cases
of Mattie Shockley,
et al, and Lulu
West, et al.

The Commissioner

to the Five Civilized Tribes, Muskogee, Oklahoma.

Sir:

Referring to your report of April 14, 1909, relative to the Choctaw enrollment cases of Mattie Shockley, et al, and Lulu West, et al, you are advised that on December 7, 1909, the Department held that in all material respects the claims of certain of the applicants in these cases were similar to that of Winerva P. Swadley, in which a decision adverse to the applicant was rendered by the Department on August 9, 1909, and therefore concluded that no further action should be taken looking to the enrollment of the applicants therein.

The Department also held that no favorable action should be taken concerning Felix K. West and the other applicants mentioned on the second page of Office letter of July 28, 1909.

You are requested to notify the applicants or their attorneys. A copy of Department decision of December 7, 1909, is transmitted herewith for your information.

L-90000-2.

and guidance. A copy of Office letter of July 26, 1969, is also enclosed for your information.

Very respectfully,

(Signed) S. V. Hume.

Chief Clerk.

CHX-10
4324.

Commissioner to the Five Tribes.
No. 2110, Received Dec. 13, 1909.

Indian Office,
Bureau,
Washington, D. C.
Dec. 11, 1909.

Advises that the Department
declines to take any action look-
ing to the enrollment of Mattie
Shockley, et al and Lulu West,
et al, as Choctaws.

-COPY)

1-41205

Land-
Population
28069-1909
T. E. P.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

Dec. 11, 1909.

Enrollment cases
of Mattie Shockley,
et al, and Lulu
West, et al.

The Commissioner

to the Five Civilized Tribes, Muskogee, Oklahoma.

Sir:

Referring to your report of April 14, 1909, relative to the Choctaw enrollment cases of Mattie Shockley, et al, and Lulu West, et al, you are advised that on December 7, 1909, the Department held that in all material respects the claims of certain of the applicants in these cases were similar to that of Minerva F. Fendley, in which a decision adverse to the applicant was rendered by the Department on August 9, 1909, and therefore concluded that no further action should be taken looking to the enrollment of the applicants therein.

The Department also held that no favorable action should be taken concerning Felix E. West and the other applicants mentioned on the second page of Office letter of July 26, 1909.

You are requested to notify the applicants or their attorneys. A copy of Department decision of December 7, 1909, is transmitted herewith for your information.

L-15069-2.

and guidance. A copy of Office letter of July 28, 1900, is also enclosed for your information.

Very respectfully,

(Signed) E. V. Hanks.

Chief Clerk.

ENV-10
6524.

Commissioner to the Five Tribes.
No. 2110. Received Dec. 13, 1909.

Indian Office,
Hauke,
Washington, D. C.
Dec. 11, 1909.

Advises that the Department
declines to take any action look-
ing to the enrollment of Mattie
Shockley, et al and Lulu West,
et al, as Choctaws.

-COPY)

1-41303

Land-
Population
65000-1000
J. A. E.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

Dec. 11, 1909.

Enrollment cases
of Mattie Shockley,
et al, and Lulu
West, et al.

The Commissioner

to the Five Civilized Tribes, Muskogee, Oklahoma.

Sir:

Referring to your report of April 14, 1909, relative to the Cheatar enrollment cases of Mattie Shockley, et al, and Lulu West, et al, you are advised that on December 7, 1909, the Department held that in all material respects the claims of certain of the applicants in these cases were similar to that of Minerva F. Swadley, in which a decision adverse to the applicant was rendered by the Department on August 9, 1909, and therefore concluded that no further action should be taken looking to the enrollment of the applicant therein.

The Department also held that no favorable action should be taken concerning Felix K. West and the other applicants mentioned on the second page of Office letter of July 26, 1909.

You are requested to notify the applicants or their attorneys. A copy of Department decision of December 7, 1909, is transmitted herewith for your information.

L-5000-2.

and guidance. A copy of Office letter of July 26, 1909, is also inclosed for your information.

Very respectfully,

(signed) S. P. Moore.

Chief Clerk.

ONE-10
6524.

Commissioner to the Five Tribes.
No. 2110. Received Dec. 13, 1909.

Indian Office,
Hauke,
Washington, D. C.
Dec. 11, 1909.

Advises that the Department
declines to take any action look-
ing to the enrollment of Mattie
Shockley, et al and Lulu West,
et al, as Choctaws.

-COPY-

1-41206

Land
Population
1880-1900
J. H. D.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

Dec. 11, 1909.

Enrollment cases
of Mattie Kheokley,
et al, and Lulu
West, et al.

The Commissioner

to the Five Civilized Tribes, Muskogee, Oklahoma.

Sir:

Referring to your report of April 14, 1909, relative to the Choctaw enrollment cases of Mattie Kheokley, et al, and Lulu West, et al, you are advised that on December 7, 1909, the Department held that in all material respects the claims of certain of the applicants in these cases were similar to that of Winerva F. Fendley, in which a decision adverse to the applicant was rendered by the Department on August 9, 1909, and therefore concluded that no further action should be taken looking to the enrollment of the applicant's therein.

The Department also held that no favorable action should be taken concerning Felix K. West and the other applicants mentioned on the second page of Office letter of July 26, 1909.

You are requested to notify the applicants or their attorneys. A copy of Department decision of December 11, 1909, is transmitted herewith for your information.

1-5000-2

and guidance. A copy of Office letter of July 26, 1969, is also enclosed for your information.

Very respectfully,

(Signed) C. F. Houke.

Chief Clerk.

652-10
6524.

Commissioner to the Five Tribes.
No. 2110. Received Dec. 13, 1909.

Indian Office,
Hauke,
Washington, D. C.
Dec. 11, 1909.

Advises that the Department
declines to take any action look-
ing to the enrollment of Mattie
Shockley, et al and Lulu West,
et al, as Choctaws.

-COPY-

1-41208

Land-
Population
1900-1909
L. E. L.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

Dec. 11, 1909.

Enrollment cases
of Mattie Shockley,
et al, and Lulu
West, et al.

The Commissioner

to the Five Civilized Tribes, Muskogee, Oklahoma.

Sir:

Referring to your report of April 14, 1909, relative to the Choctaw enrollment cases of Mattie Shockley, et al, and Lulu West, et al, you are advised that on December 7, 1909, the Department held that in all material respects the claims of certain of the applicants in these cases were similar to that of Minerva F. Swadley, in which a decision adverse to the applicant was rendered by the Department on August 9, 1909, and therefore concluded that no further action should be taken looking to the enrollment of the applicants therein.

The Department also held that no favorable action should be taken concerning Felix E. West and the other applicants mentioned on the second page of Office letter of July 24, 1909.

You are requested to notify the applicants or their attorneys. A copy of Department decision of December 7, 1909, is transmitted herewith for your information.

L-2500-2

and guidance. A copy of Office letter of July 26, 1959, is also enclosed for your information.

Very respectfully,

(Signed) C. E. Beach,
Chief Clerk.

CVE-10
3424

Commissioner to the Five Tribes/
No. 2110. Received Dec. 15, 1909.

Indian Office,
Hauke,
Washington, D. C.
Dec. 11, 1909.

Advises that the Department
declines to take any action look-
ing to the enrollment of Mattie
Shockley, et al and Lola West,
et al, as Choctaws.

-COPY-

1-61203

Land-
Population
18849-1898
T. E. D.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

Dec. 11, 1909.

Enrollment cases
of Mattie Shockley,
et al, and Lulu
West, et al.

The Commissioner

to the Five Civilized Tribes, Muskogee, Oklahoma.

Sir:

Referring to your report of April 14, 1909, relative to the Choctaw enrollment cases of Mattie Shockley, et al, and Lulu West, et al, you are advised that on December 7, 1908, the Department held that in all material respects the claims of certain of the applicants in these cases were similar to that of Winerva T. Swadley, in which a decision adverse to the applicant was rendered by the Department on August 9, 1908, and therefore concluded that no further action should be taken looking to the enrollment of the applicants therein.

The Department also held that no favorable action should be taken concerning Yelix W. West and the other applicants mentioned on the second page of Office letter of July 26, 1909.

You are requested to notify the applicants or their attorneys. A copy of Department decision of December 7, 1908, is transmitted herewith for your information.

L-30000-2.

and guidance. A copy of Service letter of July 26, 1990, is also enclosed for your information.

Very respectfully,

(Signed) C. F. House.

Chief Clerk.

65K-10
65241

Commissioner to the Five Tribes
No. 2110. Received Dec. 13, 1909.

Indian Office,
Hauke,
Washington, D. C.
Dec. 11, 1909.

Advises that the Department
declines to take any action look-
ing to the enrollment of Mattie
Shockley, et al and Lulu West,
et al, as Choctaws.

Choc 6015

William B. Brown

Aug 13, 1906 Granted

Mar 1, 1907 Decision of Commissioner reversed + schedules entering names of applicants disapproved by Dept.

Trans from Choc Card 5096

See Pet # C-34

Duplicate record bound

Mar 1, 1909 Dept requests report as to this class of cases.

April 9, 1909 Report to Dept. through Indian Office

April 20, 1909 Report to Dept. through Indian Office

June 15, 1909 Dept. holds this case is not analogous to Goldsby case and declines to take action looking to enrollment of applicant

June 29, 1909 Parties notified

6015

[illegible]

Mrs. Brown
 George Brown
 Mrs. Brown
 C. Brown
 Mrs. Brown

- Maudie Brown
 Willie Brown
 Edward Houghton Brown
 Annie Lewis Brown

Howell M. Brown
 Anna C. Kelly
 Dec. 2, 1886

Polly Ann Brown
 married Peck
 Nov. 15, 1887

George V. Brown
married
Sarah Johnson
June 9, 1895

Nancy A. Brown

Archie Brown
of the 116th Regt.
Jan. 4. 1899

John W. B. Jr.
Bran. Nichols
June 11, 1898

1873
Hella Mary Nichols
P. 1000
Nancy Nichols

James W. Mc
married
Dora Richard
April 22 18

Maggie M. Nick
married
August

1878 Mrs. N. N. N.
Louie A. N.

Blue. x Also prior to Sept 15, 1902.
Black o Enrolled as citizens by Flood
under Acts of June 26, 1898
and July 1, 1902
Red. H Enrolled as citizens by inter-
marriage under Acts of June
26, 1898 and July 1, 1902.
Brown D Denied as an intermarried
citizen.
Green • Minor children enrolled
under Act of April 26,
1906.
Orange Non-applicants.

O.L.J.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of
William B. Brown, et al., as citizens of the Choctaw Nation, con-
solidating the applications of

William B. Brown, et al.	7-5096,
William H. Brown, et al.	7-5060,
Eli W. Brown, et al.	7-D-432,
Caswell M. Brown, et al.	7-5066.
Andrew J. Peck, et al.	7-5062
George G. Brown, et al.	7-5098
James B. Nichols, et al.	7-5100,
John W. B. Nichols, et al.	7-5097,
Orin M. Nichols, et al.	7-5061,
Osa Nichols, et al.	7-D-509.

D E C I S I O N.

It appears from the census card records in this case that on September 22, 1898, application was made to the Commission to the Five Civilized Tribes for the enrollment of William B. Brown (sixty-one years of age), as a citizen by intermarriage of the Choctaw Nation, and for the enrollment of his two children, Nancy A. Brown (twenty-three years of age) and Bettie Brown, now McCarty (nineteen years of age), as citizens by blood of the said nation; on September 22, 1898, for the enrollment of William H. Brown (thirty-nine years of age), and his seven minor children, Sarah Brown, now Johnston (eighteen years of age), Becky Brown (sixteen years of age), Mary Brown, now Johnston (thirteen years of age), Mamie (or Minnie)

Brown, now Hudson (eleven years of age), Alice Brown (eight years of age), George Brown (five years of age) and Susie Brown (one year of age), as citizens by blood of the Choctaw Nation, and for the enrollment of Nancy Brown (thirty-six years of age) as a citizen by intermarriage of said nation; on September 5, 1899, for the enrollment of Eli W. Brown (twenty-eight years of age) as a citizen by intermarriage of the Choctaw Nation; on September 22, 1898, for the enrollment of Caswell M. Brown (thirty-four years of age), and his two minor children, Maudie (ten years of age) and Willie Brown (six years of age), as citizens by blood of the Choctaw Nation, and on October 18, 1898, for the enrollment of his wife, Amanda Brown (thirty-one years of age), as a citizen by intermarriage of said nation; on September 22, 1898, for the enrollment of Andrew J. Peek (thirty-two years of age) as a citizen by intermarriage of the Choctaw Nation, and for the enrollment of his wife, Felly A. Peek (thirty years of age), and his five minor children, Florence (nine years of age), Oscar (seven years of age), Benjamin G. (five years of age), Andrew (three years of age), and Otis Dewey Peek (two months of age), as citizens by blood of said nation; on September 22, 1898, for the enrollment of George G. Brown (twenty-six years of age), and his minor daughter, Willie Emma Brown (three years of age), as citizens by blood of the Choctaw Nation, and for the enrollment of his wife, Sarah Brown (twenty-one years of age), as a citizen by intermarriage of said nation; on September 22, 1898, for the enrollment of James E. Nichols (forty-eight years of age), and his two minor children, Della May Nichols, now Scott (fourteen years of age), and Nancy V. Nichols (seven years of age), as citizens by blood of the Choctaw Nation, and for the enrollment of his wife, Nancy C. Nichols, (forty-two years of age), as a

citizens by intermarriage of said nation; on September 22, 1898, for the enrollment of John W. B. Nichols (twenty-four years of age) as a citizen by blood of the Choctaw Nation, and for the enrollment of his wife, Bessie Nichols (eighteen years of age), as a citizen by intermarriage of said nation; on September 22, 1898, for the enrollment of Orin M. Nichols (forty-four years of age), and his four minor children, James W. (eighteen years of age), Maggie M. (twelve years of age), Nettie Myrtle (eight years of age), and Lonie A. Nichols (four years of age), as citizens by blood of the Choctaw Nation, and for the enrollment of his wife, Amanda M. Nichols (thirty-eight years of age), as a citizen by intermarriage of said nation; and on September 25, 1899, for the enrollment of Osa Nichols (seventeen years of age) as a citizen by intermarriage of the Choctaw nation.

Applications were subsequently made for the enrollment of the following minor applicants as citizens by blood of the Choctaw Nation: On January 20, 1902, for the enrollment of Mary Ethel McCarty (born December 8, 1901); on May 31, 1906, for the enrollment of William A. McCarty (born April 21, 1904) and Ollie McCarty (born February 14, 1906); on October 13, 1900, for the enrollment of William Erman Johnston (born June 30, 1900); on October 19, 1900, for the enrollment of Minnie Gertrude Brown (born August 13, 1900); on May 16, 1901, for the enrollment of Fannie G. Brown (born February 11, 1901); on April 29, 1906, for the enrollment of Oscar Lee Johnston (born November 14, 1902); on April 29, 1906, for the enrollment of Willie Clarence Brown (born April 8, 1903); on July 12, 1902, for the enrollment

Henry Hiten Brown, (born May 21, 1902); on April 29, 1906, for the enrollment of Ray Lester Johnston (born October 28, 1903); on May 21, 1906, for the enrollment of Edna Arvel Johnston (born March 21, 1905); on April 14, 1906, for the enrollment of Ebbie Dill Brown (born February 12, 1904); in 1899, for the enrollment of Elbert Knightington Brown (born October 8, 1899); on April 7, 1906, for the enrollment of Annie Jewell Brown (born December 2, 1902); on December 10, 1901, for the enrollment of Virgie Peck (born October 11, 1901); on April 8, 1906, for the enrollment of Prebble Peck (born February 19, 1904); on May 21, 1906, for the enrollment of Cassie Brown (born May 30, 1900) and Goldie Brown (born September 5, 1904); on April 17, 1906, for the enrollment of Nema May Scott (born May 15, 1903) and Lita Lois Scott (born February 1, 1906); on September 1, 1900, for the enrollment of Louis Herman Nichols (born August 19, 1900); on December 27, 1901, for the enrollment of Gelda Ula Nichols (born September 15, 1901); on April 1, 1906, for the enrollment of Sylvie Jewel Nichols (born August 28, 1903); on April 14, 1906, for the enrollment of Cora Lee Nichols (born November 6, 1902); on April 8, 1901, for the enrollment of Daphne Myrtle Nichols (born February 20, 1901); and on May 21, 1906, for the enrollment of Teddy Golden Johnston (born June 15, 1906).

It appears from the records of the Commission to the Five Civilized Tribes that on September 9, 1896, in the case entitled "Nancy Cooper, et al. vs. Choctaw Nation" (1896 Choctaw Citizenship Becket, Case No. 1418), original application was made to said Commission, under the provisions of the Act of Congress approved June 10, 1896 (29 Stat., 321), for admission to

citizenship in the Cheetaw Nation of the applicants, Nancy A. Brown (as Nancy Alice Brown), Bettie McCarty (as Rebecca Elizabeth Brown), William H. Brown (as William Niten Brown), Sarah Johnston (as Sarah Elizabeth Brown), Becky Brown (as Rebecca Catherine Brown), Mary Brown (as Mary Arrillie Brown), Mamie (or Minnie) Hudson (as Minnie Ann Brown), Alice Brown, George Brown (as George Montgomery Brown), Caswell M. Brown, Maudie Brown (as Mandy E. Brown), Willie Brown (as William G. Brown), Pelly A. Peck (as Pelly Ann Peck), Florence Peck (as Minnie F. Peck), Oscar Peck (as Oscar S. Peck), Benjamin Peck (as Benjamin G. Peck), Andrew Peck, George G. Brown, William Egan Brown, James B. Nichols (as James Bruton Nichols), Della May Seett (as Mary Della May Nichols), Nancy V. (Nannie Velma Nichols), John W. B. Nichols (as John William Bethuel Nichols), Orin M. Nichols (as Orrin Maybery Nichols), James W. Nichols (as James Willis Nichols), Maggie M. Nichols (as Maggie May Nichols), Nettie Myrtle Nichols, Lenie A. Nichols (as Lena Alta Nichols), as citizens by blood of said nation, and for the admission of William B. Brown, Nancy J. Brown (as Nancy Jane Brown), Amanda Brown, Andrew J. Peck (as A. J. Peck), Sarah Brown, Nancy C. Nichols (as Nancy Caroline Nichols), and Amanda M. Nichols (as Amanda Melvina Nichols), as citizens by intermarriage of said nation; and that on December 8, 1896, said Commission rendered its decision therein, denying the application of the above named applicants for enrollment as citizens of the Cheetaw Nation.

From the decision of said Commission an appeal was taken to the United States Court for the Southern District of Indian Territory, which court on December 27, 1897, in the case

entitled "Nancy J. Cooper, et al. vs. Choctaw Nation" (Southern District Citizenship Case No. 96), admitted Nancy A. Brown (as Nancy Alice Brown), Bettie McCarty (as Bettie Brown), Sarah Johnson (as Sarah Brown), Becky Brown, Mary Brown, Mamie (or Minnie) Hudson (as Mamie Brown), Alice Brown, George Brown, Susie Brown, Caswell M. Brown (as Caswell Marion Brown), Maudie Brown, Willie Brown, Polly A. Peck (as Polly Ann Peck), Florence Peck, Oscar Peck, Benjamin Peck (as Benjamin Grant Peck), Andrew Peck, George G. Brown, Willie Emma Brown, James B. Nichols (as James Bruton Nichols), Della May Scott (as Dell May Nichols), Nancy W. Nichols (as Nancy Velmor Nichols), Orin M. Nichols (as Orin Mayberry Nichols), James W. Nichols (as James Willis Nichols), Maggie M. Nichols (as Maggie May Nichols), Nettie Myrtle Nichols (as Myrtle Nichols), and Lenie A. Nichols (as Lonie Alta Nichols), as citizens by blood of the Choctaw Nation, and William B. Brown (as William Bluford Brown), Andrew J. Peck (as Andrew Jackson Peck), and Nancy C. Nichols (as Nancy Caroline Nichols), as citizens by intermarriage of said nation, and denied the applications for the admission of Nancy J. Brown (as Nancy Jane Brown), Sarah Brown, and Amanda M. Nichols (as Amanda Melvina Nichols), as citizens by intermarriage of the Choctaw Nation. The name of the applicant, Susie Brown, was interpolated in the judgment of said court, she not having been an applicant before the Commission to the Five Civilized Tribes in 1896.

On March 18, 1896, said case again came before said court upon a motion of the plaintiff's attorneys to correct the judgment of said court rendered December 20, 1897, and the court, thereupon, ordered said judgment corrected so as to admit the

applicants, Nancy J. Brown (as Nancy Jane Brown), Sarah Brown, Amanda M. Nichols (as Amanda Melvina Nichols), as citizens by intermarriage of the Choctaw Nation.

On September 28, 1898, said court rendered a supplemental judgment admitting Amanda Brown as a citizen by intermarriage of the Choctaw Nation.

On January 17, 1900, this cause again came before said court upon a motion of the defendant to strike out of the judgment theretofore rendered, certain names improperly admitted to citizenship, and said court being fully advised, ordered that the following names, Susie Brown, Andrew J. Peck as (Andrew Jackson Peck), Bettie McCarty (as Bettie Brown), and Becky Brown, be stricken from said former judgment.

Subsequently, upon the representation of the plaintiffs' attorneys that certain persons who were original applicants were by oversight or mistake left out of the original judgment theretofore rendered, the court ordered that the applicants, Nancy J. Brown (as Nancy Jane Brown), Sarah Brown, Amanda Brown, Amanda M. Nichols and Rebecca E. Brown be admitted to citizenship in the Choctaw Nation.

It further appears from the records of said Commission that on December 17, 1902, the Choctaw and Chickasaw Citizenship Court, created under the provisions of the Act of Congress approved July 1, 1902 (32 Stats., 641), "set aside, annulled, vacated and held for naught" the aforesaid judgment of the United States Court for the Southern District of Indian Territory.

Thereafter, the record in the above case was certified to the Choctaw and Chickasaw Citizenship Court, for a trial de novo, which court, on November 29, 1904, in the case entitled, "William

Neighton Brown, et al. vs. Choctaw and Chickasaw Nations" (Choctaw Chickasaw Citizenship Court Case No. 73, Tishomingo Docket), "ordered, adjudged and decreed that the petition of the plaintiffs, William Neighton Brown (or William Knighton Brown), Caswell Marion Brown, Polly Ann Peck (nse Brown), George E. Brown (or George G. Brown), Nancy Ellis Brown (or Nancy Alice Brown), Sarah Brown, Mary Brown, Monie Brown (or Mamie Brown), Alice Brown, George Brown, Mondie Brown (or Mandie Brown), Willie Brown, Florence Peck, Oscar Peck, Benjamin Grant Peck, Andrew Peck, William Emma Brown (or Willie Emma Brown), James Burton Nichols, (or James Bruton Nichols), Oney Mayberry Nichols (or Orin Mayberry Nichols), John William Beffle Nichols, Della May Nichols, Nancy Velsor Nichols, James Willis Nichols, Maggie May Nichols, Myrtle Nichols, Lonie Alta Nichols, William Buford Brown, Nancy Caroline Nichols, Rebecca E. Brown (or Becky Brown), Rebecca C. Brown (or Rebecca Brown), Amanda Melvina Nichols, Amanda Brown, Nancy J. Brown (or Nancy Jane Brown), Sarah Brown, be denied, and that they be declared not citizens of the Choctaw Nation, and not entitled to enrollment as such citizens, and not entitled to any rights whatever flowing therefrom."

On December 12, 1904, orders were entered of record by the Commission to the Five Civilized Tribes dismissing the applications for the enrollment of Mary E. McCarty, William Brown Johnston, Minnie Gertrude Brown, Henry Hiten Brown, Elbert Knightington Brown, Otis Dewey Peck, Virgie Peck, Louis Herman Nichols and Golda Ula Nichols as citizens by blood of the Choctaw Nation, and on March 12, 1906, an order was entered of record dismissing the application for the enrollment of Fannie C. Brown as a citizen by

blood of said nation. All of said applicants were dismissed for the reason that their parents through whom they claim their rights to enrollment as citizens by blood of the Choctaw Nation, had been denied by a decree of the Choctaw and Chickasaw Citizenship Court.

On December 12, 1904, orders were entered of record by the Commission to the Five Civilized Tribes dismissing the applications for the enrollment of Eli W. Brown, Bessie Nichols and Osa Nichols as citizens by intermarriage of the Choctaw Nation, for the reason that the persons through whom they claim their rights had also been denied by a decree of the Choctaw and Chickasaw Citizenship Court.

On March 30, 1905, the Commission to the Five Civilized Tribes denied the application for the enrollment of Susie Brown as a citizen by blood of the Choctaw Nation, and on April 6, 1905 (I. T. D. 3810-1905), the Department set aside said decision of the Commission and returned the record to this office for a full investigation upon its merits.

Under the regulations adopted by the Commissioner to the Five Civilized Tribes of January 2, 1906, there was filed on February 8, 1906, by Grace, Grace and Bleakmore, of Ardmore, Indian Territory, attorneys for the petitioners, petitions praying that William B. Brown, Nancy A. Brown, Minnie Hudson, Sarah Johnston, Oscar Lee Johnston, William Herman Johnston, Rebecca Brown, Minnie Gertrude Brown, Henry Niten Brown, Rabie Dill Brown, Eli W. Brown, Mary A. Johnston, Ray Lester Johnston, Edna A. Johnston, Rebecca McCarty, William A. McCarty, Mary E. McCarty, William H. Brown, Nancy Jane Brown, George Brown, Alice Brown, Susie Brown, Gletus Brown, Clarence Brown, A. J. Peck, Polly Ann Peck, Minnie Peck, Oscar Sherman Peck, Benjamin Grant Peck, Andrew Peck, O. D. Peck,

Virgie Peek, Prebble Peek, G. M. Brown, Amanda Brown, Maudy Brown, William Brown, Elbert K. Brown, Annie Jewel Brown, George G. Brown, Sarah Brown, Willie Emma Brown, Cassie Brown, Goldie Brown, J. B. Nichols, Nancy Nichols, Helma Nichols, John W. B. Nichols, Bessie Deaton Nichols, Louie Herman Nichols, Gelda Eula Nichols, Silve^{Jewel} Nichols, Della May Scott, Emma Scott, Orin M. Nichols, Amanda Nichols, Myrtle Nichols, Louie Nichols, James W. Nichols, Osa Nichols, Cora Lee Nichols and Maggie Angel be enrolled as citizens of the Cheetaw Nation.

All of the above petitioners, with the exception of Ollie McCarty, Lita Lois Scott, Daphne Myrtle Nichols and Teddy Golden Johnston, are identical with the applicants for whom application has been made for enrollment as citizens of the Cheetaw Nation.

On April 16, 1906, the principal petitioners, their attorneys, Cruse, Cruse & Bleakmore, of Ardmore, Indian Territory, and Messrs. Mansfield, McMurray & Cornish, attorneys for the Cheetaw and Chickasaw Nations, of South McAlester, Indian Territory, were advised that the Commissioner to the Five Civilized Tribes would at his office at Muskogee, Indian Territory, on Monday, May 14, 1906, at nine o'clock A. M., hear such testimony and receive such other evidence as might be submitted by the petitioners in support of their applications for enrollment as citizens of the Cheetaw Nation, and by the attorneys for the Cheetaw and Chickasaw Nations.

On April 16, 1906, William H. Brown, father of Susie Brown, Cruse, Cruse & Bleakmore, attorneys for said Susie Brown, and Mansfield, McMurray & Cornish, attorneys for the Cheetaw and Chickasaw Nations, were advised that on April 6, 1906, the Department set aside the decision rendered by the Commission on March 30, 1906, and returned the record in said case with in-

structions that a full investigation be made of the rights of said Susie Brown to enrollment as a citizen by blood of the Choctaw Nation; that the testimony of creditable witnesses be required showing her Choctaw blood, if any, the time and place of her birth, her various residences, her ancestors, the privileges, if any, enjoyed by her and her parents as citizens of the Choctaw Nation; and notified that the Commissioner to the Five Civilized Tribes would at his office at Muskogee, Indian Territory, on Monday, May 14, 1906, at nine o'clock A. M., hear such testimony and receive such other evidence as might be submitted in support of said application, investigation to be conducted along the lines indicated by Department letter above referred to.

On motion of Attorney for applicants, the hearing in the matter of the above application was continued on April 26, 1906, to May 21, 1906.

On May 21, 1906, proceedings were had in the matter of said applications in pursuance to the notices above mentioned.

It appears from the record herein that the applicants, William N. Brown, Caswell M. Brown, Polly Ann Peck, George G. Brown, Nancy A. Brown and Bettie McCarty, are the children of the principal applicant, William B. Brown, and Rebecca Cooper (now deceased), who is alleged to have been a Choctaw Indian, and the daughter of William Cooper, who was the son of Johnny Cooper, an alleged Choctaw Indian, who resided near the line between the states of Tennessee and Mississippi; that Sarah Johnston, Becky Brown, Mary Johnston, Mamie (or Minnie) Hudson, Alice Brown, George Brown, Susie Brown, Fannie G. Brown and Willie Clarence Brown, are the children of the applicants

William M. Brown and Nancy J. Brown, (the latter an applicant for intermarried rights); that William Brown, Oscar Lee and Teddy Golden Johnston are the children of the applicant, Sarah Johnston, and J. A. Johnston, a non-citizen; that Minnie Gertrude, Henry Witen and Rubie Dill Brown are the children of the applicants, Becky Brown and Eli W. Brown, (the latter an applicant for intermarried rights); that Roy Lester and Edna Arvel Johnston are the children of the applicant, Mary Johnston, and Jacob J. Johnston, a non-citizen; that Maudie, Willie, Elbert Knightington, and Annie Jewell Brown are the children of the applicant, Caswell M. Brown and Amanda Brown (the latter an applicant for intermarried rights); that Florence, Oscar, Benjamin, Andrew, Otis Dewey Virgie and Prebble Peck are the children of the applicant, Polly Ann Peck and Andrew J. Peck (the latter an applicant for intermarried rights); that Willie Emma, Cassie and Goldie Brown are the children of the applicants, George G. Brown and Sarah Brown (the latter an applicant for intermarried rights); that Mary Ethel, William A. and Ollie McCarty are the children of the applicant, Bettie McCarty, and Oliver McCarty, a non-citizen; that James B. Nichols and Orin M. Nichols are the children of Wilson Nichols (now deceased), a non-citizen, and Delitha Cooper (now deceased), who is alleged to have been a Choctaw Indian and the daughter of John Cooper, above referred to; that John W. B. Nichols, Della May Scott and Nancy B. Nichols are the children of the applicant, James B. Nichols and Nancy G. Nichols (the latter an applicant for intermarried rights); that Louis Herman, Golda Ula and Sylvie Jewel Nichols are the children of the applicant, John W. B. Nichols and Bessie Nichols (the latter an applicant for

intermarried rights); that Wema May and Lita Lois Scott are the children of the applicant, Della May Scott, and Burris Scott, a non-citizen; that James W., Maggie M., Nettie Myrtle and Lenie A. Nichols are the children of the applicant, Orin M. Nichols and Amanda M. Nichols (the latter an applicant for intermarried rights); and that the applicant, Cera Lee and Daphne Myrtle Nichols, are the children of the applicants, James W. Nichols and Osa Nichols (the latter an applicant for intermarried rights).

The applicant, William B. Brown, claims his right to citizenship in the Choctaw Nation by the virtue of his marriage on February 10, 1858, under the laws of the state of Arkansas, to Becky Cooper (now deceased); that Nancy Brown claims her right to enrollment as a citizen by intermarriage by virtue of her marriage to the applicant, William B. Brown, on September 21, 1879; that Eli W. Brown claims his right to enrollment as a citizen by intermarriage by virtue of his marriage on August 21, 1899, under the laws, customs and usages of the Chickasaw Nation to the applicant, Becky Brown, both of said applicants being at said time residents in good faith of the Chickasaw Nation; that Amanda Brown claims her right to enrollment as a citizen by intermarriage by virtue of her marriage on December 2, 1886, to the applicant, Caswell M. Brown; that Andrew J. Peek claims his right to enrollment as a citizen by intermarriage by virtue of his marriage on December 15, 1887, under the laws of the state of Arkansas to the applicant, Felly A. Peek; that Sarah Brown claims her right to enrollment as a citizen by intermarriage by virtue of her marriage to George C. Brown on June 9, 1898; that the applicant, Nancy C. Nichols, claims her right to enrollment as a citizen by intermarriage by virtue of her marriage to the applicant, James B.

Nichols, on March 9, 1873; that the applicant, Bessie Nichols, claims her right to enrollment as a citizen by intermarriage by virtue of her marriage on September 11, 1896, to the applicant, John W. B. Nichols; that Amanda M. Nichols claims her right to enrollment as a citizen by intermarriage by virtue of her marriage on October 20, 1878, to the applicant, Orin M. Nichols; and that Osa Nichols claims her right to enrollment as a citizen by intermarriage by virtue of her marriage on April 27, 1899, to the applicant, James W. Nichols.

It does not appear from the record herein or from the records in the possession of this office that the applicant, Andrew J. Peak, has ever been admitted to Choctaw citizenship by a duly constituted court or committee of the Choctaw Nation, nor has said applicant ever been married to Fally Ann Peak, through whom he claims his intermarried rights, by virtue of a license issued by the tribal authorities of either the Choctaw or Chickasaw Nation.

At the hearing before the Commissioner to the Five Civilized Tribes on May 31, 1906, William M. Brown, Garwell M. Brown, James B. Nichols and Orin M. Nichols testified that in 1894, they, together with the other applicants herein who were living at said time, petitioned the Choctaw Council for admission as citizens of the Choctaw Nation; that no action having been taken thereon, they, in 1896, appeared before the Choctaw Census Commission and made application to be enrolled upon the 1896 Choctaw Census Roll; and that some time in January, 1897, they received a certificate from the Secretary of the Choctaw Advisory Board, wherein it appeared that they had been enrolled upon the 1896 Choctaw Census Roll. Said applicants further testified

that prior to 1896 they had been permitted to issue permits for their tenants, held lands, and were not subject to any tribal tax which was due from all non-citizens who were engaged in the mercantile business.

On June 4, 1906, John H. Gamblin testified that he was acquainted with the applicants herein, and that in October, 1894, he having business before the Choctaw Council, presented on behalf of the applicants herein who were living at that time, a petition praying that they be admitted as citizens of the Choctaw Nation, and that he does not know what action, if any, was ever taken thereon.

Upon an examination of the tribal rolls of the Choctaw Nation in the possession of this office, it appears that the applicants, William B. Brown, William H. Brown, Nancy J. Brown, Caswell M. Brown, Amanda Brown, Felly Ann Peck, Andrew J. Peck, George G. Brown, Sarah Brown, Nancy A. Brown, Bettie McCarty, Sarah Johnston, Becky Brown, Mary Johnston, Mamie (or Minnie) Hudson, Alice Brown, George Brown, Basie Brown, Mandie Brown, Willie Brown, Florence Peck, Oscar Peck, Benjamin Peck, Andrew Peck, James B. Nichols, Nancy C. Nichols, Orin M. Nichols, Amanda M. Nichols, John W. B. Nichols, Della May Scott, Nancy V. Nichols, James W. Nichols, Maggie M. Nichols, Mattie Myrtle Nichols and Lemie A. Nichols, are identified upon the 1896 Choctaw Census Roll opposite numbers 1688, 1691, 1692, 1701, 1702, 10518, 10517, 1705, 1706, 1689, 1690, 1693, 1694, 1695, 1696, 1697, 1698, 1699, 1703, 1704, 10519, 10520, 10521, 10522, 9803, 9808, 9812, 9813, 9809, 9810, 9811, 9814, 9815, 9816 and 9817, respectively.

It further appears from the record herein that all of

the applicants, that were living on June 28, 1896, were residents in good faith of the Indian Territory on said date.

The evidence in this case further shows that the applicant, Daphne Myrtle Nichols, died on June 27th 1901.

I am of the opinion that in accordance with the opinions of the Assistant Attorney General for the Department of the Interior of February 10, 1905 (I. T. D. 10383-1904) and December 8, 1905 (I. T. D. 3493-1906), in the case of Lula West, the action of the Commission to the Five Civilized Tribes, and the subsequent action of the United States Court for the Southern District of Indian Territory, and the Choctaw and Chickasaw Citizenship Court, upon the right of the applicants who applied to the Commission to the Five Civilized Tribes in 1896, with the exception of Andrew J. Peck, was without authority of law, and of no force and effect upon the status of said applicants as citizens of the Choctaw Nation.

I am further of the opinion that the orders of the Commission to the Five Civilized Tribes of December 12, 1904 and March 18, 1906, dismissing the applications for the enrollment of Mary E. McCarty, William Herman Johnston, Minnie Gertrude Brown, Fannie C. Brown, Henry Witen Brown, Elbert Knightington Brown, Otis Deway Peck, Virgie Peck, Louis Herman Nichols and Golda Ula Nichols as citizens by blood of the Choctaw Nation, and Eli W. Brown, Bessie Nichols and Osa Nichols as citizens by inter-marriage of the Choctaw Nation, should be rescinded.

I am further of the opinion that in accordance with the opinions of the Assistant Attorney General for the Department of the Interior of March 3, 1906 (I. T. D. 187-1906) and March 10,

1906 (I. T. D. 9969-1906), Nancy A. Brown, Bettie McCarty, Mary Ethel McCarty, William H. Brown, Sarah Johnston, Becky Brown, Mary Johnston, Mamie (or Minnie) Hudson, Alice Brown, George Brown, Susie Brown, William Herman Johnston, Minnie Gertrude Brown, Henry Witen Brown, Fannie C. Brown, Caswell M. Brown, Maudie Brown, Willie Brown, Elbert Knightington Brown, Polly A. Peck, Florence Peck, Osear Peck, Benjamin Peck, Andrew Peck, Otis Dewey Peck, Virgie Peck, George G. Brown, Willie Emma Brown, James B. Nichols, Della May Scott, Nancy V. Nichols, John W. B. Nichols, Louie Herman Nichols, Golda Ula Nichols, Orin M. Nichols, James W. Nichols, Maggie M. Nichols, Mettie Myrtle Nichols and Lenie A. Nichols should be enrolled as citizens by blood of the Choctaw Nation, under the provisions of the Acts of Congress approved June 28, 1898 (30 Stats., 495) and July 1, 1902 (32 Stats., 641), and it is so ordered.

I am further of the opinion that William B. Brown, Nancy Brown, Eli W. Brown, Amanda Brown, Sarah Brown, Nancy C. Nichols, Bessie Nichols, Amanda M. Nichols and Osa Nichols should be enrolled as citizens by intermarriage of the Choctaw Nation, under the provisions of the Acts of Congress approved June 28, 1898 (30 Stats., 495) and July 1, 1902 (32 Stats., 641), and it is so ordered.

I am further of the opinion that the application made for the enrollment of Andrew J. Peck as a citizen by intermarriage of the Choctaw Nation should be denied, under the provisions of the Act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered.

I am further of the opinion that William A. McCarty, Ollie McCarty, Oscar Lee Johnston, Willie Clarence Brown, Ray

Lester Johnston, Edna Arvel Johnston, Teddy Golden Johnston, Rubie Bill Brown, Annie Jewell Brown, Freddie Pash, Cassie Brown, Goldie Brown, Emma May Scott, Lila Lois Scott, Sylvie Jewel Nichols and Vera Lee Nichols should be enrolled as citizens by blood of the Choctaw Nation, under the provisions of the Act of Congress approved April 26, 1906 (Public No. 129), and it is so ordered.

I am further of the opinion that the application made for the enrollment of Rophone Myrtle Nichols as a citizen by blood of the Choctaw Nation should be dismissed, and it is so ordered.

COMMISSIONER.

Muskogee, Indian Territory,

Aug. 13, 1906.

7-5096

COPY

Muskogee, Indian Territory, August 13, 1906.

William B. Brown,

Tulsey, Indian Territory.

Dear Sir:

Enclosed herewith you will find a copy of the decision of the Commissioner to the Five Civilized Tribes, rendered August 13, 1906, granting the application for your enrollment as a citizen by intermarriage of the Choctaw Nation, and the enrollment of your wife, Nancy A. Brown as a citizen by blood of said Nation.

The decision, with the record of proceedings in the case, is this day transmitted to the Secretary of the Interior for review. The final decision of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

James B. ...

Commissioner.

Registered

MAH 8/13

Muskogee, Indian Territory, August 13, 1906.

Cruce, Cruce & Bleakmore,
Attorneys at Law,
Ardmore, Indian Territory,
Gentlemen:

Inclosed herewith you will find a copy of the decision of the Commissioner to the Five Civilized Tribes, rendered August 13, 1906, granting the application for the enrollment of Nancy A. Brown, Nettie McCarty, Mary Ethel McCarty, William N. Brown, Sarah Johnston Becky Brown, Mary Johnston, Marie (or Winnie) Hudson, Alice Brown, George Brown, Thelma Brown, William Levan Johnston, Minnie Gertrude Brown, Henry Elton Brown, Fannie C. Brown, Cassell M. Brown, Mamie Brown, Willie Brown, Albert Knightington Brown, Polly A. Peck, Clarence Peck, Oscar Peck, Benjamin Peck, Andrew Peck, Otis Percy Peck, Virgie Peck, George G. Brown, Willie Anna Brown, James E. Nichols, Della May West, Nancy V. Nichols, John W. A. Nichols, Louis Herman Nichols, Golda Ula Nichols, Orin M. Nichols, James W. Nichols, Maggie M. Nichols, Nettie Myrtle Nichols, Louis A. Nichols, William A. McCarty, Ellie McCarty, Oscar Lee Johnston, Willie Clarence Brown, Roy Lester Johnston, Edna Arval Johnston, Teddy Golden Johnston, Marie Mill Brown, Annie Jewell Brown, Frankie Peck,

Cassie Brown, Goldie Brown, Emma W. Scott, Lita Lois Scott, Sylvia Jewel Nichols and Cora Lee Nichols, as citizens by blood, and for the enrollment of William F. Brown, Nancy Brown, Eli W. Brown, Amanda Brown, Sarah Brown, Nancy C. Nichols, Jessie Nichols, Amanda V. Nichols and Osa Nichols, as citizens by intermarriage, of the Chestate Nation; denying the application for the enrollment of Andrew J. Peck, as a citizen by intermarriage, and dismissing the application for the enrollment of Ephraim Myrtle Nichols as a citizen by blood of the Chestate Nation.

The decision, with the record of proceedings in the case, is this day transmitted to the Secretary of the Interior for review. The final decision of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

Registered.

Commissioner.

Incl. HAN 19/11

7-5060

Muskogee, Indian Territory, August 13, 1906.

Mansfield, McMurray & Cornish,
Attorneys for Choctaw and Chickasaw Nations,
South McAlester, Indian Territory,

Gentlemen:

Inclosed herewith you will find a copy of the decision of the Commissioner to the Five Civilized Tribes, rendered August 13, 1906, granting the application for the enrollment of Nancy A. Brown, Bettie McCarty, Mary Ethel McCarty, William W. Brown, Sarah Johnston Becky Brown, Mary Johnston, Mamie (or Winnie) Hudson, Alice Brown, George Brown, Susie Brown, William Erman Johnston, Winnie Gertrude Brown, Henry Hiten Brown, Fannie C. Brown, Cassell H. Brown, Naudie Brown, Willie Brown, Elbert Knightington Brown, Pelly A. Peck, Florence Peck, Oscar Peck, Benjamin Peck, Andrew Peck, Otis Davey Peck, Virgie Peck, George G. Brown, Willie Emma Brown, James B. Nichols, Della May Scott, Nancy V. Nichols, John W. B. Nichols, Louie Herman Nichols, Golda Ula Nichols, Orin M. Nichols, James W. Nichols, Maggie M. Nichols, Mettie Myrtle Nichols, Lonie A. Nichols, William A. McCarty, Ollie McCarty, Oscar Lee Johnston, Willie Clarence Brown, Roy Lester Johnston, Meta Arvel Johnston, Teddy Golden Johnston, Rubie Mill Brown, Annie Jewell Brown, Prabbie Peck,

Cassie Brown, Goldie Brown, Hema May Scott, Lita Lois Scott, Sylvie Jewel Nichols and Cora Lee Nichols, as citizens by blood, and for the enrollment of William B. Brown, Nancy Brown, Eli W. Brown, Amanda Brown, Sarah Brown, Nancy C. Nichols, Fessie Nichols, Amanda M. Nichols and Osa Nichols, as citizens by intermarriage, of the Chectaw Nation; denying the application for the enrollment of Andrew J. Peck, as a citizen by intermarriage, and dismissing the application for the enrollment of Daphne Myrtle Nichols as a citizen by blood of the Chectaw Nation.

The decision, with the record of proceedings in the case, is this day transmitted to the Secretary of the Interior for review. The final decision of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

Registered,

Commissioner.

Incl. HAN 17/11

5246

COMMISSIONERS.

HENRY L. DAWES,
TAMM BLISS,
ARCHIBALD S. McKEEFER,
THOMAS B. NEEDLER.

ALLISON L. ATLEWORTH, Secretary.

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, June 1, 1900.

Mr. William N. Brown,

Comanche, Indian Territory,

Dear Sir:

In the matter of the enrollment of your youngest child, Susie Brown, the Commission is in some doubt as to the date of its birth. The records show that when you appeared before the Commission as applicants for the enrollment of yourself and family, September 28, 1896, that it was stated that your child Susie was born July 1st, 1896. If this is true, the subsequent action of the court in correcting the judgment of December 20, 1897, in court case Number 96 in striking the name of that child from the original judgment, would have to stand, and she would not be entitled to enrollment.

The Commission wrote you some time ago that in case of these children whose names had been stricken from the original judgment by order of the court, and who were born subsequent to the date of the filing of the original application for citizenship with this Commission under the act of June 10th, 1896, would be listed for enrollment upon the presentation of the proper birth affidavits. In response to that letter you forwarded to the Commission, and there was filed with the records thereof the affidavit of W. N. Brown and Martha Sides as to the birth of your child Susie, and in that affidavit, sworn to by both you and Martha Sides, it is stated that your child Susie was born on October 23rd, 1897. There was, however, filed with the records of the Commission on October 2, 1897, a petition for the enroll-

W.H.B. 2.

ment of your child Susie, in which the affidavit of W. N. Brown stated that this child, Susie, was born in November, 1896. There will have to be explanation of the discrepancy in the dates of the birth of this child. On September 22nd, 1898, when you appeared as an applicant for enrollment in behalf of yourself and family, you swore that this child was born July 1st, 1896; on October 2, 1897, your affidavit was filed with this Commission, in which you swore that this child was born in November, 1896, and a recent application for the enrollment of the child, to remedy its name being stricken from the original judgment by order of the court, your sworn statement is that this child was born on the 23rd day of October, 1897. Before the Commission can or will take further action in the matter of the enrollment of this child, it will be necessary for you to appear in person for examination so that sufficient statement may be taken regarding the discrepancy in these dates. You can appear either at the office of the Commission in Muskogee, or at Atoka, Indian Territory, from June 4th to 8th, or at Colbert, Indian Territory, from June 11th to 16th.

Yours truly,



Acting Chairman.

7-6018

Muskogee, Indian Territory, August 24, 1906.

Cruise, Cruise & Bleakmore,
Attorneys at Law,
Armore, Indian Territory.

Gentlemen:

Receipt is hereby acknowledged of your letter of August 8, 1906, in the matter of the application of William B. Brown, et al. in which you call attention to the fact that the marriage license of Eli and Beckay Brown, issued by the proper tribal authorities, is filed with the record in this case and you wish to be advised if the same will be forwarded to the Secretary of the Interior with the remainder of the record.

In reply you are advised that the marriage license and certificate between Eli W. Brown and Beckay Brown, of August 21, 1899, was forwarded to the Department with the record in the matter of the application for the enrollment of William B. Brown, et al. and the decision of the Commissioner to the Five Civilized Tribes of August 13, 1906.

Respectfully,

Acting Commissioner.

SPECIAL.

J.P.

DEPARTMENT OF THE INTERIOR,

WASHINGTON.

JHE
January 15, 1907.

D.C. 2920-1907.
I.T.D 25868-1906.
818-1907.

LRS

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

Referring to departmental letters of January 9 and 14, 1907, in the matter of the applications for the enrolment of Mattie Shockley et al., as citizens by blood of the Choctaw Nation, you are advised that by direction of the President the case will be submitted to the Attorney-General for his opinion. You will suspend action relative to these claimants until further advised.

Respectfully,

Thos Ryan

First Assistant Secretary.

D.O.M.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

J.W. H.
W.C.R.
J.W.L.

SWW
File-5-51.

March 1, 1909.

The Commissioner
to the Five Civilized Tribes,

Sir:

January 25, 1909, you were advised that the names of certain persons were inadvertently included in Departmental letter of January 19, 1909 (File 5-51); that such mistake was due to the fact that it was supposed they were enrolled upon schedules approved by the Department, when in fact, the only schedules upon which their names appear were disapproved, and that no action should be taken under the circumstances looking to the erasure of interlineations or notations, if any, from the disapproved schedules, in connection with their names.

The names of the persons referred to in said letter of January 25, 1909, are as follows:

Cheetaws by Blood.

* Roll No.

16103

Elizabeth Allen.

16112

George A. Bumgarner.

16110

Louittia Crutchfield.

16105

Everett Crutchfield.

16111	George W. Crutchfield
16105	Ida Crutchfield,
16107	Ima Crutchfield,
16106	Louvinia Crutchfield
16109	William Crutchfield,
921	Josephine Laflere Long,
922	Make Laflere Long.
16104	David Ritter

It now appears from the records of the Secretary's Office that there was a schedule approved May 21, 1904, by the Secretary of the Interior, and that the approval, then given was cancelled by said Secretary at a later date, to wit, June 28, 1904.

The name of Elizabeth Allen appears upon the schedule which was approved May 21, 1904, opposite the number 15551. Ida Crutchfield's name appears opposite No. 15553, while the other members of the Crutchfield family were given the numbers immediately following that assigned to her.

You are requested to cause a report to be prepared showing whether the records of your office also show that an earlier schedule containing the names of said persons was approved May 21, 1904; also whether such approval was cancelled June 28, 1904. please report also the reason for the attempted cancellation, and whether prior notice as given thereof.

It appears further that, in connection with the names of Elizabeth Allen and the Crutchfield family on the roll approved May 21, 1904, the names of Ardeella Hickman, Ida M. Southard and Grover Randall are also to be found.

In connection with said names, it is desired that you will report what action, in your opinion, should be taken concerning the first of said persons; also whether the said Ida M. Southard and Grover Randall, respectively, are identical with the Ida M. Southard whose name appears opposite No. 15880 in the printed rolls of citizens by blood of the Cheetaw Nation, and the Grover Randall whose name appears on page 8 of Departmental letter of January 19, 1909 (File 5-51), opposite No. 15928.

As appears from the above list, there were other persons besides the said Allen and Crutchfields whose names were enrolled on schedules which were finally disapproved by the Department: for example, George A. Bungarner, Josephine Laflere Long and Jake Laflere Long.

Please report whether the names of these persons appear upon any prior approved schedule; also why it was that the Commissioner to the Five Civilized Tribes enrolled them upon the schedule which was disapproved by the Department, showing whether the Commissioner enrolled them thereon, of his own motion, or under decision or instructions from the Department.

By comparison of the roll approved May 21, 1904, with the printed rolls of Cheetaws by blood, the Department

finds that the numbers appearing thereon opposite the names of said persons were subsequently assigned to other citizens of the Choctaw Nation; thereby the series of roll numbers was kept perfect, but a material portion of the rolls was evidently sacrificed upon the supposition that it had become worthless. Inquiry arises in this connection as to whether there were other approved schedules which were subsequently disapproved and thrown aside. Accordingly, it is desired that you also cause a report to be prepared covering this feature of the matter, showing all persons embraced in similar cases, with recommendation as to what action should be taken as to them. This will necessitate a statement as to why their names were stricken or cancelled from the rolls, and whether such action was taken without prior notice.

There is still another matter concerning which the Department desires report to be made. It is observed that the words "No person enrolled at this number" are to be found not infrequently opposite consecutive numbers on the pages of the printed rolls; and you are requested to advise the Department whether such words were substituted for the names of individuals appearing on disapproved schedules, and if such is the case, whether such disapproved schedules were approved at any time by the Department; also whether favorable decisions were ever rendered by the Department as to such persons prior to their enrollment upon such disapproved schedules.

For the sake of expedition, a partial report should be rendered at once concerning the said Elizabeth Allen and the various members of the Crutchfield family named above. The other matters referred to herein can be disposed of by subsequent reports.

Very respectfully,

Joseph H. Wilson,

Assistant Secretary.

Through the

Indian Office.

Land
59223-08
17077-09

JFR

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON, D.C. Nov. 8, 09

Respectfully referred to the Commissioner
to the Five Civilized Tribes, for
appropriate action.

John Frances, Jr.
Acting Chief Land Division.

1 letter dated Nov 1, 09.

D 460-1909.

Muskogee, Oklahoma, April 20, 1909.

Subject:

Requesting report relative
to petition of Wm. B. Brown,
et al. for enrollment as
citizens of the Choctaw
Nation.

The Honorable,

The Secretary of the Interior,

Sir:

Receipt is hereby acknowledged of Indian Office letter of
April 9, 1909 (Land 23090-1909) transmitting petition of Wm.
B. Brown, et al. for enrollment as citizens of the Choctaw
Nation. This office is also requested to report specially
whether the names of any of the persons in this petition ap-
peared upon any tribal rolls of the Choctaw Nation or upon any
roll prepared by the Commission to the Five Civilized Tribes
and approved by the Secretary of the Interior.

March 1, 1909, the Department also addressed a letter to
this office requesting reports as to all persons whose names
may have been upon disapproved schedules and at whose numbers
in the printed rolls appears the notation "No person enrolled
at this number."

Secretary 2

The case of William B. Brown is one of the cases referred to in Departmental letter of March 1, 1909 and the report is made to the Secretary of the Interior, through the Indian Office, with the view of complying with both requests.

I have the honoree report as follows, relative to the case of William B. Brown and the other members of his family who were included in the decision in the consolidated Choctaw case of William B. Brown, et al.:

It appears from the records of this office that on September 9, 1896, in the case entitled Nancy Cooper et al. versus the Choctaw Nation, 1896 Choctaw Citizenship Case Number 1418, original application was made to the Commission to the Five Civilized Tribes, under the provisions of the Act of Congress approved June 10, 1896 (29 Stat., 321), for admission to citizenship in the Choctaw Nation of the applicants, Nancy A. Brown (as Nancy Alice Brown), Bettie Mc Carty (as Rebecca Elizabeth Brown), William H. Brown (as William Hiten Brown), Sarah Johnston (as Sarah Elizabeth Brown), Becky Brown (as Rebecca Catherine Brown), Mary Brown (as Mary Arrillie Brown), Mamie (or Minnie) Hudson (as Minnie Ann Brown), Alice Brown, George Brown (as George Montgomery Brown), Cassell M. Brown, Maudie Brown (as Mandy E. Brown), Willie Brown (as William C. Brown,) Polly A. Peck (as Polly Ann Peck, Florence

Secretary 3

Peck (as Minnie F. Peck), Oscar Peck (as Oscar S. Peck), Benjamin Peck (as Benjamin G. Peck), Andrew Peck, George G. Brown, Willie Emma Brown, James B. Nichols (as James Bruton Nichols), Della May Scott (as Mary Della May Nichols), Nancy V. Nichols (as Hannie Velma Nichols), John W. B. Nichols (as John William Bethuel Nichols), Orin M. Nichols (as Orrin Mayberry Nichols), James W. Nichols (as James Willie Nichols), Maggie M. Nichols (as Maggie May Nichols), Mettie Myrti Nichols, Lonie A. Nichols (as Lena Alta Nichols), as citizens by blood, and for the admission of William B. Brown, Nancy J. Brown (as Nancy Jane Brown), Amanda Brown, Andrew J. Peck (as A. J. Peck), Sarah Brown, Nancy C. Nichols (as Nancy Caroline Nichols), and Amanda M. Nichols (as Amanda Melvina Nichols), as citizens by intermarriage of said nation; and that on December 8, 1896, said Commission rendered its decision denying the applications for citizenship of the above named persons.

From this decision of the Commission an appeal was taken to the United States Court for the Southern District of Indian Territory, which court on December 20, 1897, in the case entitled Nancy J. Cooper, et al. versus the Choctaw Nation, Case Number 26 on the Citizenship Docket, admitted Nancy A. Brown (as Nancy Alice Brown), Bettie McCarty (as Bettie Brown), Sarah Johnston (as Sarah Brown), Becky Brown,

Secretary 4

Mary Brown, Mamie (or Minnie) Hudson (as Mamie Brown), Alice Brown, George Brown, Susie Brown, Caswell M. Brown (as Caswell Marion Brown), Maudie Brown, Willie Brown, Polly A. Peck (as Polly Ann Peck), Florence Peck, Oscar Peck, Benjamin Peck (as Benjamin Grant Peck), Andrew Peck, George G. Brown, Willie Emma Brown, James B. Nichols (as James Bruton Nichols), Della May Shott (as Dell May Nichols), Nancy V. Nichols (as Nancy Velmor Nichols), Orin M. Nichols (as Orin Mayberry Nichols), James W. Nichols (as James Willis Nichols), Maggie M. Nichols (as Maggie May Nichols), Nettie Myrtle Nichols (as Myrtle Nichols), and Lonie A. Nichols (as Lonie Alta Nichols) as citizens by blood of the Choctaw Nation, and William B. Brown (as William Bluford Brown), Andrew J. Peck (as Andrew Jackson Peck) and Nancy Nichols (as Nancy Caroline Nichols) as citizens by intermarriage of said nation, and denied the applications for the admission of Nancy J. Brown (as Nancy Jane Brown), Sarah Brown and Amanda M. Nichols (as Amanda Melvina Nichols) as citizens by intermarriage of the Choctaw Nation.

The name of the applicant, Susie Brown, was interpolated in the judgment of said court, she not having been an applicant before the Commission to the Five Civilized Tribes in 1896.

March 18, 1898, this case again came before the United States Court upon a motion of the plaintiffs' attorneys to

Secretary 5

correct the judgment of said court rendered December 20, 1897, and the court thereupon ordered said judgment corrected so as to admit the applicants, Nancy J. Brown (as Nancy Jane Brown), Sarah Brown, Amanda M. Nichols (as Amanda Melvina Nichols) as citizens by intermarriage of the Choctaw Nation.

September 28, 1898, said court rendered a supplemental judgment admitting Amanda Brown as a citizen by intermarriage of the Choctaw Nation.

January 17, 1900, this cause again came before the court upon a motion of the defendant to strike out of the judgment theretofore rendered certain names improperly admitted to citizenship, and the court ordered that the names of Susie Brown, Andrew J. Peck (as Andrew Jackson Peck), Bettie McCarty (as Bettie Brown), and Becky Brown be stricken from said former judgment.

Subsequently, upon the representation of the plaintiffs' attorneys that certain persons who were original applicants were by oversight or mistake left out of the original judgment theretofore rendered, the court ordered that the applicants, Nancy J. Brown (as Nancy Jane Brown), Sarah Brown, Amanda Brown, Amanda M. Nichols and Rebecca E. Brown be admitted to citizenship in the Choctaw Nation.

December 17, 1902, the Choctaw and Chickasaw Citizenship

Secretary 6

Court, created under the provisions of the Act of Congress approved July 1, 1902 (32 Stat., 641), "set aside, annulled, vacated and held for naught" the aforesaid judgment of the United States Court for the Southern District of the Indian Territory.

The record in this case was subsequently certified to the Choctaw and Chickasaw Citizenship Court for a trial de novo, which court, November 29, 1904, in the case entitled William Heighton Brown, et al. versus the Choctaw and Chickasaw Nations, Number 73 on the Tishomingo Docket, ordered, adjudged and decreed that the petition of the plaintiffs be denied and that they be declared not citizens of the Choctaw Nation, and not entitled to enrollment as such citizens, and not entitled to any rights whatever flowing therefrom.

December 12, 1904, orders were entered of record by the Commission to the Five Civilized Tribes dismissing the applications for the enrollment of Mary E. McCarty, William Erman Johnston, Minnie Gertrude Brown, Henry Niten Brown, Albert Knightington Brown, Otis Dewey Peck, Virgie Peck, Louis Herman Nichols and Golda Ula Nichols as citizens by blood of the Choctaw Nation and March 18, 1905, an order was entered of record dismissing the application for the enrollment of Fannie C. Brown as a citizen by blood of said nation

Secretary 7

for the reason that the parents of these children had been denied by a decree of the Choctaw and Chickasaw Citizenship Court.

December 12, 1904, orders were entered of record by the Commission dismissing the applications for the enrollment of Eli W. Brown, Bessie Nichols and Osa Nichols as citizens by intermarriage of the Choctaw Nation for the reason that the persons through whom they claimed their rights had been denied by a decree of the Choctaw and Chickasaw Citizenship Court.

March 30, 1905, the Commission to the Five Civilized Tribes denied the application for the enrollment of Essie Brown as a citizen by blood of the Choctaw Nation, and on April 6, 1906 (I T D 3810-1905) the Department set aside this decision of the Commission and returned the record to this office for investigation upon its merits.

Under the regulations adopted by the Commissioner to the Five Civilized Tribes of January 2, 1906, there were filed on February 6, 1906, by Grace, Grace & Bleakmore, attorneys for the petitioners, Ardmore, Indian Territory, petitions praying that William B. Brown, Nancy A. Brown, Minnie Hudson, Sarah Johnston, Oscar Lee Johnston, William Erman Johnston, Rebecca Brown, Minnie Gertrude Brown, Henry

Secretary 8

Niten Brown, Rubie Dill Brown, Eli W. Brown, Mary A. Johnston, Roy Lester Johnston, Edna A. Johnston, Rebecca McCarty, William A. McCarty, Mary E. McCarty, William E. Brown, Nancy Jane Brown, George Brown, Alice Brown, Susie Brown, Cletus Brown, Clarence Brown, A. J. Peck, Polly Ann Peck, Minnie Peck, Oscar Sherman Peck, Benjamin Grant Peck, Andrew Peck, O. D. Peck, Virgie Peck, Prebble Peck, C. M. Brown, Amanday Brown, Maudy Brown, William Brown, Elbert K. Brown, Annie Jewel Brown, George G. Brown, Sarah Brown, Willie Emma Brown, Cassie Brown, Goldie Brown, J. B. Nichols, Nancy Nichols, Belma Nichols, John W. B. Nichols, Bessie Deaton Nichols, Louie Herman Nichols, Golda Eula Nichols, Silva Jewel Nichols, Della May Scott, Nema Scott, Orin M. Nichols, Amanda Nichols, Myrtle Nichols, Lonie Nichols, James W. Nichols, Osa Nichols, Cora Lee Nichols and Maggie Angel be enrolled as citizens of the Choctaw Nation.

April 16, 1906, the principal petitioners, their attorneys of record and the attorneys for the Choctaw and Chickasaw Nations, were advised that a hearing would be had in this matter at the office of the Commissioner to the Five Civilized Tribes, Muskogee, Indian Territory, Monday, May 14, 1906, at nine o'clock A. M. and on the same date, William N. Brown, father of Sisie Brown, Cruce, Cruce & Bleakmore, and Mans-

Secretary 9

field, McMurray & Cernish, were advised that on April 6, 1906, the Department had set aside the decision of the Commission to the Five Civilized Tribes of March 30, 1905, and returned the record with instructions that a full investigation be made of the rights of the said Susie Brown to enrollment as a citizen by blood of the Choctaw Nation, and that such testimony and evidence would be received at the date of the hearing on the petition.

On Motion of attorneys for applicants the hearing was continued until May 21, 1906, on which date proceedings were had in the matter of said petition in pursuance to the notices above mentioned.

At the hearing William H. Brown, Caswell M. Brown, James B. Nichols and Orin M. Nichols testified that in 1894, they, together with the other applicants herein who were living at that time, petitioned the Choctaw Council for admission as citizens of the Choctaw Nation; that no action having been taken by the Council as to their case they, in 1896, appeared before the Choctaw Census Commission and made application to be enrolled upon the 1896 Choctaw Census Roll; that some time in January, 1897, they received a certificate from the Secretary of the Choctaw Revisory Board, wherein it appeared that they had been enrolled upon the 1896 Choctaw Census Roll.

Secretary 10

It appears that the applicants, William B. Brown, William M. Brown, Nancy J. Brown, Caswell M. Brown, Amanda Brown, Polly Ann Peck, Andrew J. Peck, George G. Brown, Sarah Brown, Nancy A. Brown, Bettie McCarty, Sarah Johnston, Becky Brown, Mary Johnston, Mamie (or Minnie) Hudson, Alice Brown, George Brown, Sisie Brown, Maudie Brown, Willie Brown, Florence Peck, Oscar Peck, Benjamin Peck, Andrew Peck, James B. Nichols, Nancy C. Nichols, Orin M. Nichols, Amanda M. Nichols, John W. B. Nichols, Della May Scott, Nancy V. Nichols, James W. Nichols, Maggie M. Nichols, Mettie Myrtle Nichols and Lonie A. Nichols are identified upon the 1896 Census Roll of the Choctaw Nation, Blue County.

August 13, 1906, the Commission to the Five Civilized Tribes rendered a decision, in accordance with the opinion of the Assistant Attorney General for the Department of the Interior of February 10, 1905 (I T D 10353-1904) and December 8, 1905 (I T D 3693-1905) in the case of Lula West, holding that the action of the Commission to the Five Civilized Tribes and the subsequent action of the United States Court for the Southern District of Indian Territory and the Choctaw and Chickasaw Citizenship Court upon the right of the applicants who applied to said Commission in 1896, with the exception of Andrew J. Peck, was without authority of law,

Secretary 11

and of no force and effect upon the status of said applicants as citizens of the Choctaw Nation.

He also rescinded the orders of the Commission to the Five Civilized Tribes of December 12, 1904, and March 18, 1905, dismissing the applications for the enrollment of Mary E. McCarty, William Erman Johnston, Minnie Gertrude Brown, Fannie C. Brown, Henry Niten Brown, Elbert Knightington Brown, Otis Dewey Peck, Virgie Peck, Louie Herman Nichols and Golda Ula Nichols as citizens by blood of the Choctaw Nation and Eli W. Brown, Bessie Nichols and Osa Nichols as citizens by intermarriage of the Choctaw Nation.

The Commissioner to the Five Civilized Tribes further held, in accordance with the opinions of the Assistant Attorney General for the Department of the Interior of March 3, 1905 (I T D 187-1905) and March 10, 1906 (I T D 9969-1905) that Nancy A. Brown, Bettie McCarty, Mary Ethel McCarty,

William H. Brown, Sarah Johnston, Becky Brown, Mary Johnston, Mamie (or Minnie) Hudson, Alice Brown, George Brown, Essie Brown, William Erman Johnston, Minnie Gertrude Brown, Henry Niten Brown, Fannie U. Brown, Caswell M. Brown, Maudie Brown, Willie Brown, Elbert Knightington Brown, Polly A. Peck, Florence Peck, Oscar Peck, Benjamin Peck, Andrew Peck, Otis Dewey

Secretary E

Peck, Virgie Peck, George G. Brown, Willie Emma Brown, James B. Nichols, Della May Scott, Nancy V. Nichols, John W. B. Nichols, Louie Herman Nichols, Golda Ula Nichols, Orin M. Nichols, James W. Nichols, Maggie M. Nichols, Mettie Myrtle Nichols and Lonie A. Nichols should be enrolled as citizens by blood and William B. Brown, Nancy Brown, Eli W. Brown, Amanda Brown, Sarah Brown, Nancy C. Nichols, Bessie Nichols, Amanda M. Nichols and Osa Nichols as citizens by intermarriage of the Choctaw Nation under the provisions of the Acts of Congress approved June 28, 1898 (30 Stat., 495) and July 1, 1902 (32 Stat., 641).

The applications for the enrollment of William A. McCarty, Ollie McCarty, Oscar Lee Johnston, Willie Clarence Brown, Roy Lester Johnston, Edna Arvel Johnston, Teddy Golden Johnston, Rubie Dill Brown, Annie Jewell Brown, Prebble Peck, Cassie Brown, Goldie Brown, Nema May Scott, Lita Lois Scott, Sylvie Jewel Nichols and Cora Lee Nichols were also granted under the provisions of the Act of Congress approved April 26, 1906 (34 Stat., 137).

The application for the enrollment of Andrew J. Peck as a citizen by intermarriage was denied and the application for the enrollment of Daphne Myrtle Nichols as a citizen by blood of the Choctaw Nation was dismissed.

Secretary B

August 14, 1906, the record in this case, together with the decision of August 13, 1906, was transmitted to the Department.

February 7, 1907, there were transmitted to the Secretary of the Interior schedules of citizens by blood and marriage of the Choctaw Nation containing the names of the persons who were favorably passed upon by the Commissioner to the Five Civilized Tribes August 13, 1906, in the Choctaw enrollment case of William B. Brown, et al., as follows:

Citizens by blood	Nos. 16121 to 16159, inclusive
Citizens by marriage	Nos. 1637 to 1645, inclusive
Minor citizens by blood	Nos. 857 to 872, inclusive

This case was analogous to the case of Mattie Shockley, et al. (Loula West case) in which this office had been directed to suspend action until the Attorney General had passed upon the questions involved in that case, but inasmuch as the time within which persons could be enrolled and their enrollment approved by the Secretary of the Interior under the provisions of the Act of Congress approved April 26, 1906, was becoming very short, the schedules above described were prepared by this office without waiting for the opinion of the Attorney General and were forwarded to the Department in order that, if the opinion of the Attorney General were favorable, the rights of these applicants might be protected without

Secretary 14

delay, and this office requested, in the event of such favorable opinion of the Attorney General, that these schedules be approved by the Secretary of the Interior.

February 26, 1907, referring to Departmental letter of February 23, 1907 (I T D 4564-1907) requesting this office to forward a list of those persons whose enrollment should be cancelled in view of the opinion of the Attorney General of February 19, 1907 in the Chottaw enrollment cases of Loula West and William C. Thompson. The Commissioner to the Five Civilized Tribes called the attention of the Department to the schedules above described which were forwarded February 7, 1907, and advised that this case was analogous to the case of Loula West. It was, therefore, recommended that the decision of August 13, 1906, be not approved by the Department and that the schedules transmitted with office letter of February 7, 1907, be disapproved by the Secretary of the Interior.

February 28, 1907 (Land 71868-1906, 2220, 14412-1907)
the Indian Office forwarded to the Department the record in the case of William B. Brown, et al. together with the schedules transmitted February 7, 1907, and recommended, in view of the opinion of the Attorney General of February 19, 1907, that the decision of the Commissioner of August 13, 1906, in

Secretary 15

so far as it was favorable to the applicants, be reversed and the schedules disapproved, which was done by the Department March 1, 1907 (I T D 5742-1907).

This office has no record of any favorable decision of the Department as to the persons included in this consolidated case.

No formal allotments were made to the persons included in this case but applications were made on their behalf for certain lands which were involved in Chickasaw contest cases. Subsequent to March 4, 1907, these contests were dismissed and on August 31, 1907, a motion to reinstate said contests was denied.

August 29, 1907, the Department advised this office that by letter of August 4, 1907, counsel for the claimants in the case of William B. Brown, et al. requested that the order of the Department of June 14, 1907, in the case of William C. Thompson and others, suspending action on claims to allotments of lands be made applicable to them.

September 20, 1907, this office reported that it did not appear that the claimants in the case of William B. Brown, et al. possessed the same status as the claimants in the case of William C. Thompson, et al. as their names had never been upon an approved roll, but that it appeared they occupied

Secretary 16

the same status as the persons included in the case of John H. Gamblin and the case of Angus A. Spring.

October 12, 1907 (I T 77803-1907) the Indian Office held that the action of the Commissioner to the Five Civilized Tribes in dismissing the contests on behalf of these claimants, and in refusing to reinstate the same, was proper and recommended that he be advised that all applications for allotments on behalf of these persons should be denied and this recommendation was approved by the Department October 14, 1907.

Following these instructions of the Department the lands in contest were awarded to the contestees, and patents therefor were recorded and delivered to them. It is believed, therefore, that these persons, in the event of a favorable decision relative to their enrollment, could not recover the land referred to, and if they are holding or claiming other land this office has no record of such claim.

If they are now in possession of other lands in the Choctaw and Chickasaw Nations, this office will, however, upon the receipt of descriptions thereof, make a record of their claim to the land, pending further action by the Department.

I have further to report that the record in this case is full and complete and it is believed the applicants could

Secretary 17

add nothing material thereto at this time, and that it would work an unjustifiable hardship upon them to notify them now to appear and give further testimony in this case and force upon them the expense of a hearing at this office.

I have not, therefore, forwarded the notices referred to in Departmental letter of March 15, 1909 and Indian Office letter of April 9, 1909, but will await specific instructions from the Department as to its wishes in the matter in accordance with my request of April 14, 1909, in the Mattie Shockley case.

If it is the desire of the Department that notices be forwarded in this case, however, this office will proceed to notify the applicants thereof immediately upon receipt of advice from the Department and will make supplemental report after their replies have been received.

The petition inclosed with Indian Office letter of April 9, 1909, is herewith returned.

Respectfully,

Commissioner.

Through the Commissioner
of Indian Affairs.

AB

1-12903

1

Land
31790-1909.
J. E. D.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS.

Washington.

Jan 25, 1909.

Enrollment case of
Wm. B. Brown et al.

The Commissioner

to the Five Civilized Tribes.

Muskogee, Oklahoma.

Sir:

Referring to your report of April 20, 1909, relative to the consolidated Choctaw enrollment case of William B. Brown et al., you are advised, that on June 15, 1909, the Department held that the case mentioned was not analogous to that of John E. Goldsby, and did not come within the principles announced by the Supreme Court of the United States in that case, (211 U. S. 249).

The Department, therefore, declined to take any action looking to the enrollment of any of the applicants in the consolidated case of William B. Brown et al.

A copy of approved Office letter of May 17, 1909, is inclosed for your further information.

You are requested to notify the parties in interest.

Very respectfully,

J. E. Dortch,

Acting Chief Clerk.

NEB-19
2432.

D-7430

Land
11790-1909
J E D

DEPARTMENT OF THE INTERIOR
OFFICE OF INDIAN AFFAIRS
Washington.

G.R.
J.W.
J.V. Jr.
W.R.B.

Enrollment case of
William B. Brown et al.

May 17, 1909.

The Honorable,

The Secretary of the Interior.

Sir:

Referring to Department letter of March 1, 1909, there is transmitted herewith a report dated April 20, 1909, from the Commissioner to the Five Civilized Tribes, relative to the enrollment case of William B. Brown et al. The history of the claim is set out fully in the reports enclosed.

The records shows, among other things, that on August 13, 1906, the Commissioner to the Five Civilized Tribes rendered a decision that Nancy A. Brown, Bettie McCarty, Mary Ethel McCarty, William H. Brown, Sarah Johnston, Becky Brown, Mary Johnston, Mamie (or Minnie) Hudson, Alice Brown, George Brown, Susie Brown, William Ernan Johnston, Minnie Gertrude Brown, Henry Eiten Brown, Fannie G. Brown, Caswell M. Brown, Maudie Brown, Willie Brown, Elbert Knighington Brown, Pelly A. Peck, Florence Peck, Oscar Peck Benjamin Peck, Andrew Peck, Otis Deway Peck, Virgie Peck, George A. Brown, Willie Emma Brown, James B. Nichols, Della May Scott, Nancy V. Nichols, John W. B. Nichols, Louis Herman Nichols, Golda Ula Nichols, Orin M.

Nichols, James W. Nichols, Maggie M. Nichols, Nettie Myrtle Nichols and Lenie A. Nichols should be enrolled as citizens by blood and William B. Brown, Nancy Brown, Eli W. Brown, Amanda Brown, Sarah Brown, Nancy C. Nichols, Bessie Nichols, Amanda M. Nichols and Osa Nichols as citizens by intermarriage of the Choctaw Nation under the provisions of the Acts of Congress approved June 28, 1898 (30 Stat. L. 495) and July 1, 1902 (32 Stat., L. 641).

The applications for the enrollment of William A. McCarty, Ollie McCarty, Oscar Lee Johnston, Willie Clarence Brown, Roy Lester Johnston, Edna Arvel Johnston, Teddy Golden Johnston, Rubie Dill Brown, Annie Jewell Brown, Prebble Peck, Cassie Brown, Goldie Brown, Hema May Scott, Lita Lois Scott, Sylvie Jewel Nichols and Cora Lee Nichols were also granted under the provisions of the Act of Congress approved April 26, 1906 (34 Stat. L. 137).

The application for the enrollment of Andrew J. Peck as a citizen by intermarriage was denied and the application for the enrollment of Daphne Myrtle Nichols as a citizen by blood of the Choctaw Nation was dismissed.

It appears that on August 14, 1906, the record in the case, together with the decision, was forwarded by the Commissioner to the Five Civilized Tribes, and that on February 7, 1907, he transmitted to the Department schedule of citizens of the Choctaw Nation by blood and by marriage, containing the names of persons who were favorably passed upon by

L. 11790-3

him in his decision of August 13, 1906, in this case. It appears also that on February 26, 1907, the Commissioner, referring to Department letter of February 23, 1907, invited the Department's attention to the above-mentioned schedules, and to the Cheetaw enrollment case of William B. Brown, et al, and recommended, in view of the opinion of the Attorney General dated February 19, 1907, in the Loula West and other cases, that his decision of August 13, 1906, be not approved, and that the schedules referred to be disapproved.

On March 1, 1907, the Department reversed the decision of the Commissioner so far as it was favorable to the applicants, and disapproved the schedules containing their names.

The Commissioner to the Five Civilized Tribes reports further that his office has no record of any favorable decision of the Department as to the persons included in this case.

It appears also that their names have never been placed upon any roll or schedule of citizens of the Cheetaw Nation prepared by the Commissioner to the Five Civilized Tribes and approved by the Department.

The Office concurs in the view of the Commissioner to the Five Civilized Tribes that as the record in the case is a complete one, the applicants could add nothing material thereto at this time, and to have them appear at his office

to give further testimony would only make additional expense for them and work a hardship without any benefit accruing therefrom.

On April 9, 1909, the Office requested the Commissioner to the Five Civilized Tribes to take no steps pending the preparation of his report concerning the enrollment case of William B. Brown et al toward the issuance of a patent to any adverse party in interest to the lands occupied by the applicants in the above mentioned case. The Commissioner was also requested to instruct the United States Indian Agent, at Union Agency, to suspend action, if any was contemplated, toward dispossessing the applicants of the lands occupied by them until further advised by the Department.

The Commissioner reports that no formal allotments were made to the persons included in the above case, but that applications were made in their behalf for certain lands which were involved in Chickasaw contest cases. The contests in behalf of these claimants were dismissed by the Commissioner to the Five Civilized Tribes, and on October 12, 1907, the Office held that the action of the Commissioner was proper, and recommended that he be advised that all applications for allotments in behalf of these persons should be denied.

This recommendation was approved by the Department on October 14, 1907. It appears from the report of the Commissioner to the Five Civilized Tribes that the lands in contest

L-31790-8

were awarded to the contestees and patents therefor were recorded and delivered to them. Title having passed to the contestees, the Department is now without authority to place or permit the applicants in the William B. Brown case to remain in possession of the lands covered by the patents issued to the contestees, even in the event of the Department rendering a favorable decision relative to their enrollment.

The Commissioner reports that his office has no record of the applicants in the case mentioned holding or claiming possession of any other lands in the Choctaw or Chickasaw Nations, but says that if they are in occupancy of such other lands his office will, upon receipt of a description thereof, make a record of the claims pending further action by the Department.

The Office is of the opinion that the case of William B. Brown et al., is not analogous to that of John E. Holdaby, and that it does not come within the principles announced by the Supreme Court of the United States in its decision of November 30, 1908, in that case (211 U. S. 249)

It is therefore recommended that the Department take no action looking to the enrollment of any of the applicants included in the consolidated case of William B. Brown, et al.

The record in the case, and other papers pertaining thereto, are transmitted herewith for your further information.

Very respectfully,

E. S. Valentine,
Acting Commissioner.

KES 11

891

WED June 16, 1909. JEN

Approved:

Frank Pierce,

First Asst. Secy. JEN

Muskogee, Oklahoma, June 28, 1909.

Mr. William B. Brown,
Tussey, Oklahoma.

Sir:

You are hereby notified that on June 15, 1909, the Secretary of the Interior held that the Choctaw enrollment case of William B. Brown, was not analogous to that of John E. Goldsby (211 U. S. 249), and declined to take any action looking to the enrollment of the applicants therein under the opinion of the Supreme Court of the United States of November 30, 1908, in said Goldsby case.

Respectfully,

WHA-EB.

Commissioner.

Land
Population
95202-1909
J E B

Enrollment case
of William B. Brown,
et al.

Dec, 4, 1909

W. S. Field, Esq.

Attorney at Law,
No. 926 Colorado Building,
Washington, D. C.

Sir:

Referring to your letter of November 26, 1909 and to the brief filed therewith, relative to the consolidated Choctaw enrollment case of William B. Brown, et al., you are advised that the statements contained in your brief do not accord with the facts in the case as shown by the record.

On March 1, 1907 the Department rendered its decision denying the applicants enrollment and disapproved the schedules containing their names. It does not appear that their names were ever on any roll or schedule of citizens of the Choctaw Nation prepared by the Commission or the Commissioner to the Five Civilized Tribes and approved by the Department or that the Department ever instructed the Commission or the Commissioner to place the names of the applicants on the roll for approval; neither does the record show that the Department ever rendered any decision favorable to their enrollment.

1000

On May 17, 1909 the Department held that the case of William B. Brown, et al., was not analogous to that of John E. Goldsby and did not come within the principles announced by the Supreme Court of the United States in its decision of November 30, 1908 (211 U. S., 249) in that case.

The Department, therefore, declined to take any action looking to the enrollment of the applicant included in the consolidated case of William B. Brown, et al.

In view of the record in the case and of the Department's action therein, the Office can see no reason for recommending legislation in behalf of the applicants in said case.

Very respectfully,

(Signed) F. H. Abbott,

Assistant Commissioner.

NAS-30
6292

Refer in reply to
the following:

Land-
Population
24072-1910
J. M. D.

2-33161

Address only the
Commissioner of Indian
Affairs

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,

Enrollment claim of WASHINGTON.
William B. Brown, et al.

Mar 29 1910

The Commissioner
to the Five Civilized Tribes,
Muskogee, Oklahoma.

Sir:

On November 26, 1909, W. E. Field, attorney at law,
Washington, D. C., filed a brief in support of a motion for a
rehearing and review in the consolidated Choctaw enrollment case
of William B. Brown, et al.

There is transmitted herewith for your information a
copy of Department letter of March 22, 1910, denying said motion.
There is also inclosed a copy of Office letter of December 4,
1909, in said case.

Very respectfully,

John Francis Jr.
Acting Chief Land Division.

KK-26
3826

G.G.A.

Copy

J.W.H.

DEPARTMENT OF THE INTERIOR.

WASHINGTON.

D-7339.

Office of Indian
Affairs.

Received
Mar 23, 1910
File 24078

Commissioner of Indian Affairs.

Sir:

I petition has been filed for a rehearing and review in the matter of the Choctaw enrollment case of William B. Brown et al., which was the subject of your letter of May 17, 1909, approved June 15, 1909, recommending that the Department take no action looking to the enrollment of any of the applicants included in said case.

It is urged that the applicants were found to be entitled to enrollment by the Secretary of the Interior and that therefore they should be accorded the status of recognized citizens of the Choctaw nation. It appears, however, from the records of the Department that the decision by which they were adjudged to be entitled to enrollment, and upon which they apparently rely, was rendered by the Commissioner to the Five Civilized Tribes; that said decision was not affirmed by the Secretary of the Interior, and that the names of the applicants do not appear upon the final rolls approved by the Secretary.

Premises considered, the petition is hereby denied and you are requested to advise the parties in interest ac-

cordingly. The petition and the letter received with it
are inclosed for the files of your office.

This letter will be regarded as a substitute for
departmental letter of March 5, 1919, relating to said case.

Very respectfully,

(Signed) Frank Pierce
First Assistant Secretary.

Choc 6016

Bettie McCarty

Aug 13, 1906 Granted

March 1, 1907 Decision of Commissioner reversed and schedules containing names of applicant's death proved by Dept.

See C#35

Transferred from Choc #5096

Duplicate record bound

Mar 1, 1909 Dept requests report as to this class of cases.

April 20, 1909 Report to Dept.

June 15, 1909 Dept holds case is not analogous to Goldsby case and declines to take action looking to enrollment of applicants.

June 15, 1909 Parties notified

6016

Muskogee, Indian Territory, January 21, 1902.

Cruce & Cruce,

Attorneys at Law,

Adams, Indian Territory,

Gentlemen:

Receipt is hereby acknowledged of your letter of the sixteenth instant, inclosing marriage license and certificate of Ollie McCarty and Bettie Brown, of January 2, 1899, and also application for enrollment as a citizen of the Choctaw Nation of Mary Ethel McCarty, the infant daughter of Oliver and Rebecca E. McCarty, born December 8, 1901. The evidence of marriage submitted has been accepted and filed with our records as authority for the changing of the name of Bettie Brown from her maiden name to her present married name of McCarty. The application for the enrollment of the child, Mary Ethel McCarty, being in proper form, has been accepted and filed with the records of the Commission as evidence of the birth of this child and the same made a part of the record in the application for enrollment as a citizen of the Choctaw Nation of her mother Bettie McCarty.

Yours truly,

Muskogee, Indian Territory, June 9, 1906.

Ollie McCarty,

Tussy, Indian Territory.

Dear Sir:

Receipt is hereby acknowledged of the affidavits of Rebecca McCarty and J. I. Taylor to the birth of Olley McCarty, and William A. McCarty, children of Olley McCarty and Rebecca McCarty, February 14, 1906, and April 21, 1904; also affidavits of Rebecca McCarty and Ida Williams to the birth of Mary McCarty, child of Olley McCarty and Rebecca E. McCarty, December 8, 1901.

It is stated in the affidavit of the mother that she is ~~a citizen~~ by blood of the Choctaw Nation. If this is correct you are requested to give the names of her parents, the time and place application was made for her enrollment, and if she has selected an allotment of the lands of the Choctaw or Chickasaw Nation give her roll number as it appears upon her allotment certificate.

Respectfully,

Commissioner.

Tussy, I. T.

June 18, 1906.

To the Commission of the five
Civilized tribes,

In reply to your letter you didnt understand my name Rebecca
Elizabeth is my name. My name is give Bettie Brown there in
your office on the Choctaw Roll you have our certificate of
evidence there in your office. I don't remember the numbers
of it.

I am the daughter of William B. Brown. My mother is Rebecca
Cooper the wife of William B. Brown a sister of William
N. Brown and Caswell M. Brown and George G. Brown and my name
is Bettie and Rebecca E. McCarty Both Both names is the
same woman I am the wife of Alley McCarty. My name is Bettie
on the Choctaw Roll and I art to a give my name Bettie
there but I never thought when I was was fixing the papers
my name is both Rebecca E and Bettie is all the same and the
older people gives my name Bettie and I give it Rebiecca E
and I ask it to be corrected to Bettie McCarty from Bettie Mc
Carty are Rebecca E McCarty all the same woman and there are
my children I have tried to write so as you could understand
this and want to anything about it you don't understand
write me and I'll try explain it.

Muskogee, Indian Territory, June 29, 1906.

Bettie McCarty,

Tussey, Indian Territory.

Dear Madam:

Receipt is hereby acknowledged of your letter of June 18, 1906, in which you give the names of your parents and state that your name appears on record as Bettie Brown, and that your correct name is Rebecca Elizabeth McCarty, but that you are usually called Bettie McCarty.

In reply you are advised that it appears that Bettie Brown, daughter of William B. and Rebecca Brown, has been denied citizenship in the Choctaw and Chickasaw Nations by the Choctaw and Chickasaw Citizenship Court.

This information has been made a part of the record in the matter of your application for the enrollment of your children, Olley, Mary E. and William A. McCarty as citizens of the Choctaw Nation.

Respectfully,

Commissioner.

SPECIAL.

J.P.

DEPARTMENT OF THE INTERIOR,

WASHINGTON.

THE
January 15, 1907.

D.C. 2920-1907.
I.T.D 25868-1906.
818-1907.

LRS

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

Referring to departmental letters of January 9 and 14, 1907,
in the matter of the applications for the enrolment of Mattie
Shockley et al., as citizens by blood of the Choctaw Nation,
you are advised that by direction of the President the case will
be submitted to the Attorney-General for his opinion. You will
suspend action relative to these claimants until further advised.

Respectfully,

Thos Ryan

First Assistant Secretary.

D.O.M.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

J.W. H.
W.C.R.
JW.L.

GW
File-5-51.

March 1, 1909.

The Commissioner
to the Five Civilized Tribes,

Sir:

January 25, 1909, you were advised that the names of certain persons were inadvertently included in Departmental letter of January 19, 1909 (File 5-51); that such mistake was due to the fact that it was supposed they were enrolled upon schedules approved by the Department, when in fact, the only schedules upon which their names appear were disapproved, and that no action should be taken under the circumstances looking to the erasure of interlineations or notations, if any, from the disapproved schedules, in connection with their names.

The names of the persons referred to in said letter of January 25, 1909, are as follows:

Choctaws by Blood.

* Roll No.

16103	Elizabeth Allen.
16112	George A. Bungarner.
16110	Louitia Crutchfield.
161051	Everett Crutchfield.

16111

George W. Crutchfield

16105

Ida Crutchfield,

16107

Ima Crutchfield,

16108

Louvinia Crutchfield

16109

William Crutchfield,

921

Josephine Laflere Long,

922

Hake Laflere Long.

16104

David Ritter

It now appears from the records of the Secretary's Office that there was a schedule approved May 21, 1904, by the Secretary of the Interior, and that the approval, then given was cancelled by said Secretary at a later date, to wit, June 28, 1904.

The name of Elizabeth Allen appears upon the schedule which was approved May 21, 1904, opposite the number 15551. Ida Crutchfield's name appears opposite No. 15553, while the other members of the Crutchfield family were given the numbers immediately following that assigned to her.

You are requested to cause a report to be prepared showing whether the records of your office also show that an earlier schedule containing the names of said persons was approved May 21, 1904; also whether such approval was cancelled June 28, 1904. please report also the reason for the attempted cancellation, and whether prior notice as given thereof.

It appears further that, in connection with the names of Elizabeth Allen and the Crutchfield family on the roll approved May 21, 1904, the names of Arcella Hickman, Ida M. Southard and Grever Randall are also to be found.

In connection with said names, it is desired that you will report what action, in your opinion, should be taken concerning the first of said persons; also whether the said Ida M. Southard and Grever Randall, respectively, are identical with the Ida M. Southard whose name appears opposite No. 15000 in the printed rolls of citizens by blood of the Chestaw Nation, and the Grever Randall whose name appears on page 8 of Departmental letter of January 19, 1909 (File 8-51), opposite No. 15028.

As appears from the above list, there were other persons besides the said Allen and Crutchfields whose names were enrolled on schedules which were finally disapproved by the Department: for example, George A. Bungarner, Josephine Laflere Long and Jake Laflere Long.

Please report whether the names of these persons appear upon any prior approved schedule; also why it was that the Commissioner to the Five Civilized Tribes enrolled them upon the schedule which was disapproved by the Department, showing whether the Commissioner enrolled them thereon, of his own motion, or under decision or instructions from the Department.

By comparison of the roll approved May 21, 1904, with the printed rolls of Chestaws by blood, the Department

finds that the numbers appearing thereon opposite the names of said persons were subsequently assigned to other citizens of the Choctaw Nation; thereby the series of roll numbers was kept perfect, but a material portion of the rolls was evidently sacrificed upon the supposition that it had become worthless. Inquiry arises in this connection as to whether there were other approved schedules which were subsequently disapproved and thrown aside. Accordingly, it is desired that you also cause a report to be prepared covering this feature of the matter, showing all persons embraced in similar cases, with recommendation as to what action should be taken as to them. This will necessitate a statement as to why their names were stricken or cancelled from the rolls, and whether such action was taken without prior notice.

There is still another matter concerning which the Department desires report to be made. It is observed that the words "No person enrolled at this number" are to be found not infrequently opposite consecutive numbers on the pages of the printed rolls; and you are requested to advise the Department whether such words were substituted for the names of individuals appearing on disapproved schedules, and if such is the case, whether such disapproved schedules were approved at any time by the Department; also whether favorable decisions were ever rendered by the Department as to such persons prior to their enrollment upon such disapproved schedules.

For the sake of expedition, a partial report should be rendered at once concerning the said Elizabeth Allen and the various members of the Crutchfield family named above. The other matters referred to herein can be disposed of by subsequent reports.

Very respectfully,
Joseph H. Wilson,
Assistant Secretary.

Through the
Indian Office.

Land
25220-00
27077-00

JFR

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON, D.C. Mar. 2, 09

Respectfully referred to the Commissioner
to the Five Civilized Tribes, for
appropriate action.

John Francis, Jr.
Acting Chief Land Division.

1 letter dated Mar 1, 09.

D 460-1909.

Muskogee, Oklahoma, April 20, 1909.

Subject:

Requesting report relative
to petition of Wm. B. Brown,
et al. for enrollment as
citizens of the Choctaw
Nation.

The Honorable,

The Secretary of the Interior,

Sir:

Receipt is hereby acknowledged of Indian Office letter of April 9, 1909 (Land 23092-1909) transmitting petition of Wm. B. Brown, et al. for enrollment as citizens of the Choctaw Nation. This office is also requested to report specially whether the names of any of the persons in this petition appeared upon any tribal rolls of the Choctaw Nation or upon any roll prepared by the Commission to the Five Civilized Tribes and approved by the Secretary of the Interior.

March 1, 1909, the Department also addressed a letter to this office requesting reports as to all persons whose names may have been upon disapproved schedules and at whose numbers in the printed rolls appears the notation "No person enrolled at this number."

Secretary 2

The case of William B. Brown is one of the cases referred to in Departmental letter of March 1, 1909 and the report is made to the Secretary of the Interior, through the Indian Office, with the view of complying with both requests.

I have the honorable report as follows, relative to the case of William B. Brown and the other members of his family who were included in the decision in the consolidated Choctaw case of William B. Brown, et al.:

It appears from the records of this office that on September 9, 1896, in the case entitled Nancy Ceeper et al. versus the Choctaw Nation, 1896 Choctaw Citizenship Case Number 1418, original application was made to the Commission to the Five Civilized Tribes, under the provisions of the Act of Congress approved June 10, 1896 (29 Stat., 321), for admission to citizenship in the Choctaw Nation of the applicants, Nancy A. Brown (as Nancy Alice Brown), Bettie Mc Carty (as Rebecca Elizabeth Brown), William H. Brown (as William Hiten Brown), Sarah Johnston (as Sarah Elizabeth Brown), Becky Brown (as Rebecca Catherine Brown), Mary Brown (as Mary Arrillie Brown), Mamie (or Minnie) Hanson (as Minnie Ann Brown), Alice Brown, George Brown (as George Montgomery Brown), Caswell H. Brown, Maudie Brown (as Mandy E. Brown), Willie Brown (as William C. Brown,) Pelly A. Peck (as Pelly Ann Peck, Florence

Secretary 3

Peck (as Minnie F. Peck), Oscar Peck (as Oscar S. Peck), Benjamin Peck (as Benjamin G. Peck), Andrew Peck, George G. Brown, Willie Emma Brown, James B. Nichols (as James Bruton Nichols), Della May Scott (as Mary Della May Nichols), Nancy V. Nichols (as Nannie Velma Nichols), John W. B. Nichols (as John William Bethuel Nichols), Orin M. Nichols (as Orrin Mayberry Nichols), James W. Nichols (as James Willis Nichols), Maggie M. Nichols (as Maggie May Nichols), Nettie Myrtle Nichols, Lenie A. Nichols (as Lena Alta Nichols), as citizens by blood, and for the admission of William B. Brown, Nancy J. Brown (as Nancy Jane Brown), Amanda Brown, Andrew J. Peck (as A. J. Peck), Sarah Brown, Nancy C. Nichols (as Nancy Caroline Nichols), and Amanda M. Nichols (as Amanda Melvina Nichols), as citizens by intermarriage of said nation; and that on December 8, 1896, said Commission rendered its decision denying the applications for citizenship of the above named persons.

From this decision of the Commission an appeal was taken to the United States Court for the Southern District of Indian Territory; which court on December 20, 1897, in the case entitled Nancy J. Cooper, et al. versus the Choctaw Nation, Case Number 96 on the Citizenship Docket, admitted Nancy A. Brown (as Nancy Alice Brown), Bettie McCarty (as Bettie Brown), Sarah Johnston (as Sarah Brown), Becky Brown,

Secretary 4

Mary Brown, Mamie (or Minnie) Hudson (as Mamie Brown), Alice Brown, George Brown, Susie Brown, Cassell M. Brown (as Cassell Marion Brown), Mandie Brown, Willie Brown, Pelly A. Peck (as Pelly Ann Peck), Florence Peck, Oscar Peck, Benjamin Peck (as Benjamin Grant Peck), Andrew Peck, George G. Brown, Willie Emma Brown, James E. Nichols (as James Bruton Nichols), Della May Bett (as Della May Nichols), Nancy V. Nichols (as Nancy Valmor Nichols), Orin M. Nichols (as Orin Mayberry Nichols), James W. Nichols (as James Willis Nichols), Maggie M. Nichols (as Maggie May Nichols), Mettie Myrtle Nichols (as Myrtle Nichols), and Lonie A. Nichols (as Lonie Alta Nichols) as citizens by blood of the Choctaw Nation, and William B. Brown (as William Bluford Brown), Andrew J. Peck (as Andrew Jackson Peck) and Nancy Nichols (as Nancy Caroline Nichols) as citizens by intermarriage of said nation, and denied the applications for the admission of Nancy J. Brown (as Nancy Jane Brown), Sarah Brown and Amanda M. Nichols (as Amanda Melvina Nichols) as citizens by intermarriage of the Choctaw Nation.

The name of the applicant, Susie Brown, was interpolated in the judgment of said court, she not having been an applicant before the Commission to the Five Civilized Tribes in 1896.

March 18, 1898, this case again came before the United States Court upon a motion of the plaintiffs' attorneys to

Secretary 5

correct the judgment of said court rendered December 20, 1897, and the court thereupon ordered said judgment corrected so as to admit the applicants, Nancy J. Brown (as Nancy Jane Brown), Sarah Brown, Amanda M. Nichols (as Amanda Melvina Nichols) as citizens by intermarriage of the Choctaw Nation.

September 28, 1898, said court rendered a supplemental judgment admitting Amanda Brown as a citizen by intermarriage of the Choctaw Nation.

January 17, 1900, this cause again came before the court upon a motion of the defendant to strike out of the judgment theretofore rendered certain names improperly admitted to citizenship, and the court ordered that the names of Susie Brown, Andrew J. Peck (as Andrew Jackson Peck), Bettie McCarty (as Bettie Brown), and Becky Brown be stricken from said former judgment.

Subsequently, upon the representation of the plaintiffs' attorneys that certain persons who were original applicants were by oversight or mistake left out of the original judgment theretofore rendered, the court ordered that the applicants, Nancy J. Brown (as Nancy Jane Brown), Sarah Brown, Amanda Brown, Amanda M. Nichols and Rebecca E. Brown be admitted to citizenship in the Choctaw Nation.

December 17, 1902, the Choctaw and Chickasaw Citizenship

Secretary 6

Court, created under the provisions of the Act of Congress approved July 1, 1902 (32 Stat., 641), "set aside, annulled, vacated and held for naught" the aforesaid judgment of the United States Court for the Southern District of the Indian Territory.

The record in this case was subsequently certified to the Choctaw and Chickasaw Citizenship Court for a trial de novo, which court, November 29, 1904, in the case entitled William Heighon Brown, et al. versus the Choctaw and Chickasaw Nations, Number 73 on the Tishomingo Docket, ordered, adjudged and decreed that the petition of the plaintiffs be denied and that they be declared not citizens of the Choctaw Nation, and not entitled to enrollment as such citizens, and not entitled to any rights whatever flowing therefrom.

December 12, 1904, orders were entered of record by the Commission to the Five Civilized Tribes dismissing the applications for the enrollment of Mary E. McCarty, William Erman Johnston, Winnie Gertrude Brown, Henry Hiten Brown, Ebert Knightington Brown, Otis Dewey Peck, Virgie Peck, Louie Herman Nichols and Gelda Ula Nichols as citizens by blood of the Choctaw Nation and March 18, 1905, an order was entered of record dismissing the application for the enrollment of Fannie C. Brown as a citizen by blood of said nation

Secretary 7

for the reason that the parents of these children had been denied by a decree of the Choctaw and Chickasaw Citizenship Court.

December 12, 1904, orders were entered of record by the Commission dismissing the applications for the enrollment of Eli W. Brown, Bessie Nichols and Osa Nichols as citizens by intermarriage of the Choctaw Nation for the reason that the persons through whom they claimed their rights had been denied by a decree of the Choctaw and Chickasaw Citizenship Court.

March 30, 1905, the Commission to the Five Civilized Tribes denied the application for the enrollment of Essie Brown as a citizen by blood of the Choctaw Nation, and on April 6, 1906 (I T D 3810-1905) the Department set aside this decision of the Commission and returned the record to this office for investigation upon its merits.

Under the regulations adopted by the Commissioner to the Five Civilized Tribes of January 2, 1906, there were filed on February 6, 1906, by Guce, Guce & Bleakmore, attorneys for the petitioners, Ardmore, Indian Territory, petitions praying that William B. Brown, Nancy A. Brown, Minnie Hudson, Sarah Johnston, Oscar Lee Johnston, William Brown Johnston, Rebecca Brown, Minnie Gertrude Brown, Henry

Secretary 8

Witen Brown, Rubie Dill Brown, Eli W. Brown, Mary A. Johnston, Roy Lester Johnston, Edna A. Johnston, Rebecca McCarty, William A. McCarty, Mary E. McCarty, William E. Brown, Nancy Jane Brown, George Brown, Alice Brown, Susie Brown, Cletus Brown, Clarence Brown, A. J. Peck, Polly Ann Peck, Minnie Peck, Oscar Sherman Peck, Benjamin Grant Peck, Andrew Peck, O. D. Peck, Virgie Peck, Prebble Peck, C. M. Brown, Amanday Brown, Maudy Brown, William Brown, Elbert K. Brown, Annie Jewel Brown, George G. Brown, Sarah Brown, Willie Emma Brown, Cassie Brown, Goldie Brown, J. B. Nichols, Nancy Nichols, Belma Nichols, John W. B. Nichols, Bessie Deaton Nichols, Louie Herman Nichols, Golda Eula Nichols, Silva Jewel Nichols, Della May Scott, Nema Scott, Orin M. Nichols, Amanda Nichols, Myrtle Nichols, Louie Nichols, James W. Nichols, Osa Nichols, Cora Lee Nichols and Maggie Angel be enrolled as citizens of the Choctaw Nation.

April 16, 1906, the principal petitioners, their attorneys of record and the attorneys for the Choctaw and Chickasaw Nations, were advised that a hearing would be had in this matter at the office of the Commissioner to the Five Civilized Tribes, Muskogee, Indian Territory, Monday, May 14, 1906, at nine o'clock A. M. and on the same date, William E. Brown, father of Wite Brown, Cruce, Cruce & Bleakmore, and Mans-

Secretary 9

field, McMurray & Cornish, were advised that on April 6, 1906, the Department had set aside the decision of the Commission to the Five Civilized Tribes of March 30, 1905, and returned the record with instructions that a full investigation be made of the rights of the said Susie Brown to enrollment as a citizen by blood of the Choctaw Nation, and that such testimony and evidence would be received at the date of the hearing on the petition.

On Motion of attorneys for applicants the hearing was continued until May 21, 1906, on which date proceedings were had in the matter of said petition in pursuance to the notices above mentioned.

At the hearing William E. Brown, Caswell M. Brown, James B. Nichols and Orin M. Nichols testified that in 1894, they, together with the other applicants herein who were living at that time, petitioned the Choctaw Council for admission as citizens of the Choctaw Nation; that no action having been taken by the Council as to their case they, in 1896, appeared before the Choctaw Census Commission and made application to be enrolled upon the 1896 Choctaw Census Roll; that some time in January, 1897, they received a certificate from the Secretary of the Choctaw Revisory Board, wherein it appeared that they had been enrolled upon the 1896 Choctaw Census Roll.

Secretary 10

It appears that the applicants, William B. Brown, William E. Brown, Nancy J. Brown, Caswell M. Brown, Amanda Brown, Polly Ann Peck, Andrew J. Peck, George G. Brown, Sarah Brown, Nancy A. Brown, Bettie McCarty, Sarah Johnston, Becky Brown, Mary Johnston, Mamie (or Minnie) Hudson, Alice Brown, George Brown, Essie Brown, Maudie Brown, Willie Brown, Florence Peck, Oscar Peck, Benjamin Peck, Andrew Peck, James E. Nichols, Nancy C. Nichols, Orin M. Nichols, Amanda M. Nichols, John W. E. Nichols, Della May Scott, Nancy V. Nichols, James W. Nichols, Maggie M. Nichols, Mattie Myrtle Nichols and Lonie A. Nichols are identified upon the 1896 Census Roll of the Choctaw Nation, Blue County.

August 13, 1906, the Commission to the Five Civilized Tribes rendered a decision, in accordance with the opinion of the Assistant Attorney General for the Department of the Interior of February 10, 1905 (I T D 10353-1904) and December 8, 1905 (I T D 3693-1905) in the case of Lula West, holding that the action of the Commission to the Five Civilized Tribes and the subsequent action of the United States Court for the Southern District of Indian Territory and the Choctaw and Chickasaw Citizenship Court upon the right of the applicants who applied to said Commission in 1896, with the exception of Andrew J. Peck, was without authority of law,

Secretary 11

and of no force and effect upon the status of said applicants as citizens of the Choctaw Nation.

He also rescinded the orders of the Commission to the Five Civilized Tribes of December 12, 1904, and March 18, 1905, dismissing the applications for the enrollment of Mary E. McCarty, William Erman Johnston, Minnie Gertrude Brown, Fannie C. Brown, Henry Niten Brown, Elbert Knightington Brown, Otis Dewey Peck, Virgie Peck, Louis Herman Nichols and Golda Ula Nichols as citizens by blood of the Choctaw Nation and Eli W. Brown, Beattie Nichols and Osa Nichols as citizens by intermarriage of the Choctaw Nation.

The Commissioner to the Five Civilized Tribes further held, in accordance with the opinions of the Assistant Attorney General for the Department of the Interior of March 3, 1905 (I T D 187-1905) and March 10, 1906 (I T D 9909-1906) that Nancy A. Brown, Bettie McCarty, Mary Ethel McCarty, William N. Brown, Sarah Johnston, Becky Brown, Mary Johnston, Mamie (or Minnie) Hudson, Alice Brown, George Brown, Susie Brown, William Erman Johnston, Minnie Gertrude Brown, Henry Niten Brown, Fannie C. Brown, Caswell M. Brown, Maudie Brown, Willie Brown, Elbert Knightington Brown, Polly A. Peck, Florence Peck, Oscar Peck, Benjamin Peck, Andrew Peck, Otis Dewey

Secretary E

Peck, Virgie Peck, George G. Brown, Willie Emma Brown, James B. Nichols, Della May Scott, Nancy V. Nichols, John W. B. Nichols, Louis Herman Nichols, Golda Ula Nichols, Orin M. Nichols, James W. Nichols, Maggie M. Nichols, Nettie Myrtle Nichols and Lonie A. Nichols should be enrolled as citizens by blood and William B. Brown, Nancy Brown, Eli W. Brown, Amanda Brown, Sarah Brown, Nancy C. Nichols, Bessie Nichols, Amanda W. Nichols and Osa Nichols as citizens by intermarriage of the Choctaw Nation under the provisions of the Acts of Congress approved June 28, 1898 (30 Stat., 495) and July 1, 1902 (32 Stat., 641).

The applications for the enrollment of William A. McCarty, Ollie McCarty, Oscar Lee Johnston, Willie Clarence Brown, Roy Lester Johnston, Edna Arvel Johnston, Teddy Golden Johnston, Rubie Dill Brown, Annie Jewell Brown, Prebble Peck, Cassie Brown, Goldie Brown, Nema May Scott, Lita Lois Scott, Sylvie Jewel Nichols and Cora Lee Nichols were also granted under the provisions of the Act of Congress approved April 26, 1906 (34 Stat., 137).

The application for the enrollment of Andrew J. Peck as a citizen by intermarriage was denied and the application for the enrollment of Daphne Myrtle Nichols as a citizen by blood of the Choctaw Nation was dismissed.

Secretary 13

August 14, 1906, the record in this case, together with the decision of August 13, 1906, was transmitted to the Department.

February 7, 1907, there were transmitted to the Secretary of the Interior schedules of citizens by blood and marriage of the Choctaw Nation containing the names of the persons who were favorably passed upon by the Commissioner to the Five Civilized Tribes August 13, 1906, in the Choctaw enrollment case of William B. Brown, et al., as follows:

Citizens by blood	Nos. 16121 to 16159, inclusive
Citizens by marriage	Nos. 1637 to 1648, inclusive
Minor citizens by blood	Nos. 357 to 872, inclusive

This case was analogous to the case of Mattie Shockley, et al. (Loula West case) in which this office had been directed to suspend action until the Attorney General had passed upon the questions involved in that case, but inasmuch as the time within which persons could be enrolled and their enrollment approved by the Secretary of the Interior under the provisions of the Act of Congress approved April 26, 1906, was becoming very short, the schedules above described were prepared by this office without waiting for the opinion of the Attorney General and were forwarded to the Department in order that, if the opinion of the Attorney General were favorable, the rights of these applicants might be protected without

Secretary 14

delay, and this office requested, in the event of such favorable opinion of the Attorney General, that these schedules be approved by the Secretary of the Interior.

February 26, 1907, referring to Departmental letter of February 23, 1907 (I T D 4564-1907) requesting this office to forward a list of those persons whose enrollment should be cancelled in view of the opinion of the Attorney General of February 19, 1907 in the Choctaw enrollment cases of Loula West and William C. Thompson, the Commissioner to the Five Civilized Tribes called the attention of the Department to the schedules above described which were forwarded February 7, 1907, and advised that this case was analogous to the case of Loula West. It was, therefore, recommended that the decision of August 13, 1906, be not approved by the Department and that the schedules transmitted with office letter of February 7, 1907, be disapproved by the Secretary of the Interior.

February 28, 1907 (Land 71868-1906, 2220, 14412-1907)
the Indian Office forwarded to the Department the record in the case of William B. Brown, et al. together with the schedules transmitted February 7, 1907, and recommended, in view of the opinion of the Attorney General of February 19, 1907, that the decision of the Commissioner of August 13, 1906, in

Secretary 15

so far as it was favorable to the applicants, be reversed and the schedules disapproved, which was done by the Department March 1, 1907 (I T D 5742-1907).

This office has no record of any favorable decision of the Department as to the persons included in this consolidated case.

No formal allotments were made to the persons included in this case but applications were made on their behalf for certain lands which were involved in Chickasaw contest cases. Subsequent to March 4, 1907, these contests were dismissed and on August 31, 1907, a motion to reinstate said contests was denied.

August 29, 1907, the Department advised this office that by letter of August 4, 1907, counsel for the claimants in the case of William B. Brown, et al. requested that the order of the Department of June 14, 1907, in the case of William C. Thompson and others, suspending action on claims to allotments of lands be made applicable to them.

September 30, 1907, this office reported that it did not appear that the claimants in the case of William B. Brown, et al. possessed the same status as the claimants in the case of William C. Thompson, et al. as their names had never been upon an approved roll, but that it appeared they occupied

Secretary 16

the same status as the persons included in the case of John H. Gamblin and the case of Angus A. Spring.

October 12, 1907 (I T 77803-1907) the Indian Office held that the action of the Commissioner to the Five Civilized Tribes in dismissing the contests on behalf of these claimants, and in refusing to reinstate the same, was proper and recommended that he be advised that all applications for allotments on behalf of these persons should be denied and this recommendation was approved by the Department October 14, 1907.

Following these instructions of the Department the lands in contest were awarded to the contestees, and patents therefor were recorded and delivered to them. It is believed, therefore, that these persons, in the event of a favorable decision relative to their enrollment, could not recover the land referred to, and if they are holding or claiming other land this office has no record of such claim.

If they are now in possession of other lands in the Choctaw and Chickasaw Nations, this office will, however, upon the receipt of descriptions thereof, make a record of their claim to the land, pending further action by the Department.

I have further to report that the record in this case is full and complete and it is believed the applicants could

Secretary 17

add nothing material thereto at this time, and that it would work an unjustifiable hardship upon them to notify them now to appear and give further testimony in this case and force upon them the expense of a hearing at this office.

I have not, therefore, forwarded the notices referred to in Departmental letter of March 15, 1909 and Indian Office letter of April 9, 1909, but will await specific instructions from the Department as to its wishes in the matter in accordance with my request of April 14, 1909, in the Mattie Shooley case.

If it is the desire of the Department that notices be forwarded in this case, however, this office will proceed to notify the applicants thereof immediately upon receipt of advice from the Department and will make supplemental report after their replies have been received.

The petition inclosed with Indian Office letter of April 9, 1909, is herewith returned.

Respectfully,

Commissioner.

Through the Commissioner
of Indian Affairs.

AB

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J.E.D

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS
Washington.

Jun 25, 1909

Enrollment case of
Wm. E. Brown et al.

The Commissioner

to the Five Civilized Tribes,
Muskogee, Oklahoma.

Sir:

Referring to your report of April 20, 1909, relative to the consolidated Choctaw enrollment case of William E. Brown et al., you are advised, that on June 15, 1909, the Department held that the case mentioned was not analogous to that of John E. Goldsby, and did not come within the principles announced by the Supreme Court of the United States in that case, (211 U. S. 249). The Department, therefore declined to take any action looking to the enrollment of any of the applicants in the consolidated case of William E. Brown et al.

A copy of approved Office letter of May 17, 1909, is inclosed for your further information.

You are requested to notify the parties in interest.

Very respectfully,

J. E. Borch,
Acting Chief Clerk,

MRB-19
2534.

D-7339

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS.
Washington.

G.R.
J.W.
J.F. Jr.
W.R.L.

Land
51790-1909
J E D

Enrollment case of
Wm. B. Brown et al.

May 17, 1909

The Honorable,

The Secretary of the Interior.

Sir:

Referring to Department letter of March 1, 1909, there is transmitted herewith a report dated April 20, 1909, from the Commissioner to the Five Civilized Tribes, relative to the enrollment case of William B. Brown et al. The history of the claim is set out fully in the reports enclosed.

The record shows, among other things, that on August 13, 1906, the Commissioner to the Five Civilized Tribes rendered a decision that Nancy A. Brown, Bettie McCarty, Mary Ethel McCarty, William N. Brown, Sarah Johnston, Becky Brown, Mary Johnston, Mamie (or Minnie) Hudson, Alice Brown, George Brown, Susie Brown, William Erman Johnston, Minnie Gertrude Brown, Henry Witen Brown, Fannie C. Brown, Caswell M. Brown, M Maudie Brown, Willie Brown, Albert Knightington Brown, Pelly A. Peck, Florence Peck, Oscar Peck, Benjamin Peck, Andrew Peck, Otis Dewey Peck, Virgie Peck, George G. Brown, Willie Emma Brown, James B. Nichols, Della May Scott, Nancy V. Nichols, John W.

L-31790-2

B. Nichols, Louis Herman Nichols, Golda Ula Nichols, Orin E. Nichols, James W. Nichols, Maggie M. Nichols, Nettie Myrtle Nichols and Louis A. Nichols should be enrolled as citizens by blood and William B. Brown, Nancy Brown, Eli W. Brown, Amanda Brown, Sarah Brown, Nancy G. Nichols, Beanie Nichols, Amanda Y. Nichols and Osa Nichols as citizens by intermarriage of the Chectaw Nation under the provisions of the Acts of Congress approved June 28, 1898 (30 Stat. L. 495) and July 1, 1902 (32 Stat., L. 641).

The applications for the enrollment of William A. McDarty, Ollie McDarty, Oscar Lee Johnston, Willie Clarence Brown, Ray Lester Johnston, Edna Arvel Johnston, Teddy Golden Johnston, Rubie Mill Brown, Annie Jewell Brown, Prebble Peak, Cassie Brown, Goldie Brown, Wema May Scott, Lita Lois Scott, Sylvie Jewel Nichols and Cera Lee Nichols were also granted under the provisions of the Act of Congress approved April 26, 1906 (34 Stat. L. 137).

The application for the enrollment of Andrew J. Peak as a citizen by intermarriage was denied and the application for the enrollment of Daphne Myrtle Nichols as a citizen by blood of the Chectaw Nation was dismissed.

It appears that on August 14, 1906, the record in the case, together with the decision, was forwarded by the Com-

L-21790-3

missioner to the Five Civilized Tribes, and that on February 7, 1907, he transmitted to the Department schedules of citizens of the Choctaw Nation by blood and by marriage, containing the names of persons who were favorably passed upon by him in his decision of August 13, 1906, in this case. It appears also that on February 26, 1907, the Commissioner, referring to Department letter of February 23, 1907, invited the Department's attention to the above-mentioned schedules, and to the Choctaw enrollment case of William B. Brown, et al., and recommended, in view of the opinion of the Attorney General dated February 19, 1907, in the Loula West and other cases, that his decision of August 13, 1906, be not approved, and that the schedules referred to be disapproved.

On March 1, 1907, the Department reversed the decision of the Commissioner so far as it was favorable to the applicants, and disapproved the schedules containing their names.

The Commissioner to the Five Civilized Tribes reports further that his office has no record of any favorable decision of the Department as to the persons included in this case.

It appears also that their names have never been placed upon any roll or schedule of citizens of the Choctaw Nation prepared by the Commissioner to the Five Civilized Tribes and approved by the Department.

L-21790-4

The Office concurs in the view of the Commissioner to the Five Civilized Tribes that as the record in the case is a complete one, the applicants could add nothing material thereto at this time, and to have them appear at his office to give further testimony would only make additional expense for them and work a hardship without any benefits accruing therefrom.

On April 9, 1909, the Office requested the Commissioner to the Five Civilized Tribes to take no steps pending the preparation of his report concerning the enrollment case of William B. Brown, et al toward the issuance of a patent to any adverse party in interest to the lands occupied by the applicants in the above mentioned case. The Commissioner was also requested to instruct the United States Indian Agent, at Union Agency, to suspend action, if any was contemplated, toward dispossessing the applicants of the lands occupied by them until further advised by the Department.

The Commissioner reports that no formal allotments were made to the persons included in the above case, but that applications were made in their behalf for certain lands which were involved in Chickasaw contest cases. The contests in behalf of these claimants were dismissed by the Commissioner to the Five Civilized Tribes, and on October 12, 1907, the Office held that the action of the Commissioner was proper, and recommended that he be advised that all applications for

L-31790-5

allotments in behalf of these persons should be denied.

This recommendation was approved by the Department on October 14, 1907. It appears from the report of the Commissioner to the Five Civilized Tribes that the lands in contest were awarded to the contestees and patents therefor were recorded and delivered to them. Title having passed to the contestees, the Department is now without authority to place or permit the applicants in the William B. Brown case to remain in possession of the lands covered by the patents issued to the contestees, even in the event of the Department rendering a favorable decision relative to their enrollment.

The Commissioner reports that his office has no record of the applicants in the case mentioned holding or claiming possession of any other lands in the Choctaw or Chickasaw Nations, but says that if they are in occupancy of such other lands his office will, upon receipt of a description thereof, make a record of the claims pending further action by the Department.

The Office is of the opinion that the case of William B. Brown, et al., is not analogous to that of John E. Goldsby, and that it does not come within the principles announced by the Supreme Court of the United States in its decision of November 30, 1908, in that case (211 U. S. 249.)

L-21790-6

It is therefore recommended that the Department take no action looking to the enrollment of any of the applicants included in the consolidated case of William B. Brown, et al.

The record in the case, and other papers pertaining thereto, are transmitted herewith for your further information.

Very respectfully,

R. G. Valentine,

Acting Commissioner.

RMS 11

891

WUP June 15, 1909 JWH

Approved:

Frank Pierce,

First Assistant Secretary. FVC

Muskogee, Oklahoma, June 28, 1909.

Bettie McCarty,

Tussey, Oklahoma.

Dear Madam:

You are hereby notified that on June 15, 1909, the Secretary of the Interior held that the Choctaw enrollment case of William B. Brown, et al., with which your case was consolidated was not analogous to that of John E. Goldsby (211 U. S. 249) and declined to take any action looking to the enrollment of the applicants therein under the opinion of the Supreme Court of the United States of November 30, 1908, in said Goldsby case.

Respectfully,

WHA-KB.

Commissioner.

O. L. J.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of William B. Brown, et al., as citizens of the Choctaw Nation, consolidating the applications of

William B. Brown, et al.	7-5096,
William W. Brown, et al.	7-5060,
Eli W. Brown, et al.	7-D-432,
Caswell M. Brown, et al.	7-5066,
Andrew J. Peck, et al.	7-5062,
George G. Brown, et al.	7-5095,
James B. Nichols, et al.	7-5100,
John W. B. Nichols, et al.	7-5097,
Orin M. Nichols, et al.	7-5061,
Oga Nichols, et al.	7-D-509.

D E C I S I O N.

It appears from the census card records in this case that on September 22, 1898, application was made to the Commission to the Five Civilized Tribes for the enrollment of William B. Brown (sixty-one years of age), as a citizen by intermarriage of the Choctaw Nation, and for the enrollment of his two children, Nancy A. Brown (twenty-three years of age) and Bettie Brown, now McCarty (nineteen years of age), as citizens by blood of the said nation; on September 22, 1898, for the enrollment of William W. Brown (thirty-nine years of age), and his seven minor children, Sarah Brown, now Johnston (eighteen years of age), Becky Brown (sixteen years of age), Mary Brown, now Johnston (thirteen years of age), Mamie (or Winnie)

Brown, now Hudson (eleven years of age), Alice Brown (eight years of age), George Brown (five years of age) and Gusie Brown (one year of age), as citizens by blood of the Choctaw Nation, and for the enrollment of Nancy Brown (thirty-six years of age) as a citizen by intermarriage of said nation; on September 5, 1899, for the enrollment of Eli W. Brown (twenty-eight years of age) as a citizen by intermarriage of the Choctaw Nation; on September 22, 1898, for the enrollment of Caswell M. Brown (thirty-four years of age), and his two minor children, Maudie (ten years of age) and Willie Brown (six years of age), as citizens by blood of the Choctaw Nation, and on October 18, 1898, for the enrollment of his wife, Amanda Brown (thirty-one years of age), as a citizen by intermarriage of said nation; on September 22, 1898, for the enrollment of Andrew J. Peck (thirty-two years of age) as a citizen by intermarriage of the Choctaw Nation, and for the enrollment of his wife, Polly A. Peck (thirty years of age), and his five minor children, Florence (nine years of age), Oscar (seven years of age), Benjamin G. (five years of age), Andrew (three years of age), and Otis Dewey Peck (two months of age), as citizens by blood of said nation; on September 22, 1898, for the enrollment of George G. Brown (twenty-six years of age), and his minor daughter, Willie Emma Brown (three years of age), as citizens by blood of the Choctaw Nation, and for the enrollment of his wife, Sarah Brown (twenty-one years of age), as a citizen by intermarriage of said nation; on September 22, 1898, for the enrollment of James B. Nichols (forty-eight years of age), and his two minor children, Nellie May Nichols, now Scott (fourteen years of age), and Nancy V. Nichols (seven years of age), as citizens by blood of the Choctaw Nation, and for the enrollment of his wife, Nancy C. Nichols (forty-two years of age), as a

citizens by intermarriage of said nation; on September 22, 1898, for the enrollment of John W. B. Nichols (twenty-four years of age) as a citizen by blood of the Choctaw Nation, and for the enrollment of his wife, Pessie Nichols (eighteen years of age), as a citizen by intermarriage of said nation; on September 22, 1898, for the enrollment of Orin M. Nichols (forty-four years of age), and his four minor children, James W. (eighteen years of age), Maggie M. (twelve years of age), Mettie Myrtle (eight years of age), and Lonie A. Nichols (four years of age), as citizens by blood of the Choctaw Nation, and for the enrollment of his wife, Amanda M. Nichols (thirty-eight years of age), as a citizen by intermarriage of said nation; and on September 25, 1899, for the enrollment of Osa Nichols (seventeen years of age) as a citizen by intermarriage of the Choctaw Nation.

✓ Application ~~was~~ subsequently made for the enrollment of the following minor applicants as citizens by blood of the Choctaw Nation: On January 20, 1902, for the enrollment of Mary Ethel McCarty (born December 8, 1901); on May 31, 1906, for the enrollment of William A. McCarty (born April 21, 1904) and Ollie McCarty (born February 14, 1906); on October 13, 1900, for the enrollment of William Erman Johnston (born June 30, 1900); on October 19, 1900, for the enrollment of Minnie Gertrude Brown (born August 13, 1900); on May 16, 1901, for the enrollment of Fannie C. Brown (born February 11, 1901); on April 29, 1905, for the enrollment of Oscar Lee Johnston (born November 14, 1902); on April 29, 1905, for the enrollment of Willie Clarence Brown (born April 8, 1903); on July 12, 1902, for the enrollment of

Henry Niten Brown, | born May 21, 1902); on April 29, 1905, for the enrollment of Roy Lester Johnston (born October 28, 1903); on May 21, 1906, for the enrollment of Edna Arvel Johnston (born March 21, 1905); on April 14, 1905, for the enrollment of Rubie Dill Brown (born February 12, 1904); in 1899, for the enrollment of Elbert Knightington Brown (born October 8, 1899); on April 7, 1905, for the enrollment of Annie Jewell Brown (born December 2, 1902); on December 10, 1901, for the enrollment of Virgie Peck (born October 11, 1901); on April 8, 1905, for the enrollment of Prebble Peck (born February 19, 1904); on May 21, 1906, for the enrollment of Cassie Brown (born May 30, 1900) and Goldie Brown (born September 5, 1904); on April 17, 1905, for the enrollment of Nema May Scott (born May 15, 1903) and Lita Lois Scott (born February 1, 1906); on September 1, 1900, for the enrollment of Louie Herman Nichols (born August 19, 1900); on December 27, 1901, for the enrollment of Golda Ula Nichols (born September 15, 1901); on April 1, 1905, for the enrollment of Sylvie Jewel Nichols (born August 26, 1903); on April 14, 1905, for the enrollment of Cora Lee Nichols (born November 6, 1902); on April 6, 1901, for the enrollment of Daphne Myrtle Nichols (born February 20, 1901); and on May 21, 1906, for the enrollment of Teddy Golden Johnston (born June 15, 1905).

It appears from the records of the Commission to the Five Civilized Tribes that on September 9, 1896, in the case entitled "Nancy Cooper, et al. vs. Choctaw Nation" (1896 Choctaw citizenship Docket, Case No. 1418), original application was made to said Commission, under the provisions of the act of Congress approved June 10, 1896 (29 Stats., 321), for admission to

citizenship in the Choctaw Nation of the applicants, Nancy A. Brown (as Nancy Alice Brown), Pettie McCarty (as Rebecca Elizabeth Brown), William N. Brown (as William Niten Brown), Sarah Johnston (as Sarah Elizabeth Brown), Becky Brown (as Rebecca Catherine Brown), Mary Brown (as Mary Arrillie Brown), Mamie (or Minnie) Hudson (as Minnie Ann Brown), Alice Brown, George Brown (as George Montgomery Brown), Caswell M. Brown, Naudie Brown (as Mandy E. Brown), Willie Brown (as William G. Brown), Polly A. Peck (as Polly Ann Peck), Florence Peck (as Minnie F. Peck), Oscar Peck (as Oscar S. Peck), Benjamin Peck (as Benjamin G. Peck), Andrew Peck, George G. Brown, Willie Emma Brown, James B. Nichols (as James Pruten Nichols), Della May Scott (as Mary Della May-Nichols), Nancy V. Nannie Velma Nichols), John W. B. Nichols (as John William Bethuel Nichols), Orin M. Nichols (as Orrin Maybery Nichols), James W. Nichols (as James Willis Nichols), Maggie M. Nichols (as Maggie May Nichols), Mettie Myrtle Nichols, Lonie A. Nichols (as Lena Alta Nichols), as citizens by blood of said nation, and for the admission of William P. Brown, Nancy J. Brown (as Nancy Jane Brown), Amanda Brown, Andrew J. Peck (as A. J. Peck), Sarah Brown, Nancy C. Nichols (as Nancy Caroline Nichols), and Amanda M. Nichols (as Amanda Melvina Nichols), as citizens by intermarriage of said nation; and that on December 8, 1896, said Commission rendered its decision therein, denying the application of the above named applicants for enrollment as citizens of the Choctaw Nation.

From the decision of said Commission an appeal was taken to the United States Court for the Southern District of Indian Territory, which court on December 27, 1897, in the case

entitled "Nancy J. Cooper, et al. vs. Choctaw Nation" (southern District Citizenship Case No. 96), admitted Nancy A. Brown (as Nancy Alice Brown), Pettie McCarty (as Pettie Brown), Sarah Johnson (as Sarah Brown), Becky Brown, Mary Brown, Mamie (or Minnie) Hudson (as Mamie Brown), Alice Brown, George Brown, Susie Brown, Caswell M. Brown (as Caswell Marion Brown), Maudie Brown, Willie Brown, Polly A. Peck (as Polly Ann Peck), Florence Peck, Oscar Peck, Benjamin Peck (as Benjamin Grant Peck), Andrew Peck, George G. Brown, Willie Emma Brown, James B. Nichols (as James Bruton Nichols), Della May Scott (as Dell May Nichols), Nancy V. Nichols (as Nancy Velmar Nichols), Orin M. Nichols (as Orin Mayberry Nichols), James W. Nichols (as James Willis Nichols), Maggie M. Nichols (as Maggie May Nichols), Mettie Myrtle Nichols (as Myrtle Nichols), and Lonie A. Nichols (as Lonie Alta Nichols), as citizens by blood of the Choctaw Nation, and William B. Brown (as William Pluford Brown), Andrew J. Peck (as Andrew Jackson Peck), and Nancy C. Nichols (as Nancy Caroline Nichols), as citizens by intermarriage of said nation, and denied the applications for the admission of Nancy J. Brown (as Nancy Jane Brown), Sarah Brown, and Amanda M. Nichols (as Amanda Melvina Nichols), as citizens by intermarriage of the Choctaw Nation. The name of the applicant, Susie Brown, was interpolated in the judgment of said court, she not having been an applicant before the Commission to the Five Civilized Tribes in 1896.

On March 18, 1898, said case again came before said court upon a motion of the plaintiffs' attorneys to correct the Judgment of said court rendered December 20, 1897, and the court, thereupon, ordered said judgment corrected so as to admit the

applicants, Nancy J. Brown (as Nancy Jane Brown), Sarah Brown, Amanda M. Nichols (as Amanda Melvina Nichols), as citizens by intermarriage of the Choctaw Nation.

On September 28, 1898, said court rendered a supplemental judgment admitting Amanda Brown as a citizen by intermarriage of the Choctaw Nation.

On January 17, 1900, this cause again came before said court upon a motion of the defendant to strike out of the judgment theretofore rendered, certain names improperly admitted to citizenship, and said court being fully advised, ordered that the following names, Susie Brown, Andrew J. Peck (as Andrew Jackson Peck), Bettie McCarty (as Bettie Brown), and Becky Brown, be stricken from said former judgment.

Subsequently, upon the representation of the plaintiffs' attorneys that certain persons who were original applicants were by oversight or mistake left out of the original judgment theretofore rendered, the court ordered that the applicants, Nancy J. Brown (as Nancy Jane Brown), Sarah Brown, Amanda Brown, Amanda M. Nichols and Rebecca E. Brown be admitted to citizenship in the Choctaw Nation.

It further appears from the records of said commission that on December 17, 1902, the Choctaw and Chickasaw Citizenship Court, created under the provisions of the Act of Congress approved July 1, 1902 (32 Stats., 641), "set aside, annulled, vacated and held for naught" the aforesaid judgment of the United States Court for the Southern District of Indian Territory.

Thereafter, the record in the above case was certified to the Choctaw and Chickasaw Citizenship Court, for a trial de novo, which court, on November 29, 1904, in the case entitled, "William

Neighton Brown, et al. vs. Choctaw and Chickasaw Nations" (Choctaw-Chickasaw Citizenship Court Case No. 73, Tishomingo Docket), "ordered, adjudged and decreed that the petition of the plaintiffs, William Neighton Brown (or William Knighton Brown), Caswell Marion Brown, Polly Ann Peck (nee Brown), George R. Brown (or George G. Brown), Noney Ellis Brown (or Noney Alice Brown), Sarah Brown, Mary Brown, Monie Brown (or Mamie Brown), Alice Brown, George Brown, Mondie Brown (or Maudie Brown), Willie Brown, Florence Peck, Oscar Peck, Benjamin Grant Peck, Andrew Peck, William Emma Brown (or Willie Emma Brown), James Purton Nichols (or James Bruton Nichols), Oney Mayberry Nichols (or Orin Mayberry Nichols), John William Peffle Nichols, Della May Nichols, Nancy Velmer Nichols, James Willis Nichols, Maggie May Nichols, Myrtle Nichols, Lonie Alta Nichols, William Buford Brown, Nancy Caroline Nichols, Rebecca E. Brown (or Pecky Brown), Rebecca C. Brown (or Rebecca Brown), Amanda Melvina Nichols, Amanda Brown, Nancy J. Brown (or Nancy Jane Brown), Sarah Brown, be denied, and that they be declared not citizens of the Choctaw Nation, and not entitled to enrollment as such citizens, and not entitled to any rights whatever flowing therefrom."

On December 12, 1904, orders were entered of record by the Commission to the Five Civilized Tribes dismissing the applications for the enrollment of Mary E. McCarty, William Brown Johnston, Minnie Gertrude Brown, Henry Niten Brown, Elbert Knightington Brown, Otis Dewey Peck, Virgie Peck, Louis Herman Nichols and Golda Ula Nichols as citizens by blood of the Choctaw Nation, and on March 18, 1905, an order was entered of record dismissing the application for the enrollment of Fannie C. Brown as a citizen by

blood of said nation. All of said applicants were dismissed for the reason that their parents through whom they claim their rights to enrollment as citizens by blood of the Choctaw Nation, had been denied by a decree of the Choctaw and Chickasaw Citizenship Court.

On December 12, 1904, orders were entered of record by the Commission to the Five Civilized Tribes dismissing the applications for the enrollment of Eli W. Brown, Pessie Nichols and Osa Nichols as citizens by intermarriage of the Choctaw Nation, for the reason that the persons through whom they claim their rights had also been denied by a decree of the Choctaw and Chickasaw Citizenship Court.

On March 30, 1905, the Commission to the Five Civilized Tribes denied the application for the enrollment of Gusie Brown as a citizen by blood of the Choctaw Nation, and on April 6, 1906 (I. T. D. 3810-1905), the Department set aside said decision of the Commission and returned the record to this office for a full investigation upon its merits.

Under the regulations adopted by the Commissioner to the Five Civilized Tribes of January 2, 1906, there was filed on February 6, 1906, by Cruce, Cruce and Pleakmore, of Ardmore, Indian Territory, attorneys for the petitioners, petitions praying that William B. Brown, Nancy A. Brown, Minnie Hudson, Sarah Johnston, Oscar Lee Johnston, William Erman Johnston, Rebecca Brown, Minnie Gertrude Brown, Henry Niten Brown, Ruhie Dill Brown, Eli W. Brown, Mary A. Johnston, Roy Lester Johnston, Edna A. Johnston, Rebecca McCarty, William A. McCarty, Mary E. McCarty, William N. Brown, Nancy Jane Brown, George Brown, Alice Brown, Gusie Brown, Cletus Brown, Clarence Brown, A. J. Peck, Polly Ann Peck, Minnie Peck, Oscar Sherman Peck, Benjamin Grant Peck, Andrew Peck, O. D. Peck,

Virgie Peck, Prebble Peck, C. M. Brown, Amanday Brown, Maudy Brown, William Brown, Elbert K. Brown, Annie Jewel Brown, George G. Brown, Sarah Brown, Willie Emma Brown, Cassie Brown, Goldie Brown, J. B. Nichols, Nancy Nichols, Velma Nichols, John W. B. Nichols, Bessie Deaton Nichols, Louie Herman Nichols, Golda Lula Nichols, Silva Jewel Nichols, Della May Scott, Nema Scott, Orin M. Nichols, Amanda Nichols, Myrtle Nichols, Lonie Nichols, James W. Nichols, Osa Nichols, Cora Lee Nichols and Maggie Angel be enrolled as citizens of the Choctaw Nation.

All the above petitioners, with the exception of Ollie McCarty, Lita Lois Scott, Daphne Myrtle Nichols and Teddy Golden Johnston, are identical with the applicants for whom application has been made for enrollment as citizens of the Choctaw Nation.

On April 16, 1906, the principal petitioners, their attorneys, Cruce, Cruce & Fleakmore, of Ardmore, Indian Territory, and Messrs. Mansfield, McMurray & Cornish, attorneys for the Choctaw and Chickasaw Nations, of South McAlester, Indian Territory, were advised that the Commissioner to the Five Civilized Tribes would at his office at Muskogee, Indian Territory, on Monday, May 14, 1906, at nine o'clock A. M., hear such testimony and receive such other evidence as might be submitted by the petitioners in support of their applications for enrollment as citizens of the Choctaw Nation, and by the attorneys for the Choctaw and Chickasaw Nations.

On April 16, 1906, William W. Brown, father of Susie Brown, Cruce, Cruce & Fleakmore, attorneys for said Susie Brown, and Mansfield, McMurray & Cornish, attorneys for the Choctaw and Chickasaw Nations, were advised that on April 6, 1906, the department set aside the decision rendered by the commission on March 30, 1906, and returned the record in said case with in-

structions that a full investigation be made of the rights of said Susie Brown to enrollment as a citizen by blood of the Choctaw Nation; that the testimony of creditable witnesses be required showing her Choctaw blood, if any, the time and place of her birth, her various residences, her ancestors, the privileges, if any, enjoyed by her and her parents as citizens of the Choctaw Nation; and notified that the Commissioner to the Five Civilized Tribes would at his office at Muskogee, Indian Territory, on Monday, May 14, 1906, at nine o'clock A. M., hear such testimony and receive such other evidence as might be submitted in support of said application, investigation to be conducted along the lines indicated by Department letter above referred to.

On motion of Attorney for applicants, the hearing in the matter of the above application was continued on April 26, 1906, to May 21, 1906.

On May 21, 1906, proceedings were had in the matter of said applications in pursuance to the notices above mentioned.

It appears from the record herein that the applicants, William E. Brown, Caswell M. Brown, Polly Ann Peck, George G. Brown, Nancy A. Brown and Bettie McCarty, are the children of the principal applicant, William E. Brown, and Rebecca Cooper (now deceased), who is alleged to have been a Choctaw Indian, and the daughter of William Cooper, who was the son of Johnny Cooper, an alleged Choctaw Indian, who resided near the line between the states of Tennessee and Mississippi; that Sarah Johnston, Becky Brown, Mary Johnston, Mamie (or Minnie) Hudson, Alice Brown, George Brown, Susie Brown, Fannie C. Brown and Willie Clarence Brown, are the children of the applicants

William N. Brown and Nancy J. Brown, (the latter an applicant for intermarried rights); that William Erman, Oscar Lee and weddy Golden Johnston are the children of the applicant, Sarah Johnston, and J. A. Johnston, a non-citizen; that Winnie Gertrude, Henry Niten and Rubie Dill Brown are the children of the applicants, Becky Brown and Eli W. Brown, (the latter an applicant for intermarried rights); that Roy Lester and Edna Arvel Johnston are the children of the applicant, Mary Johnston, and Jace J. Johnston, a non-citizen; that Maudie, Willie, Elbert Knightington, and Annie Jewell Brown are the children of the applicant, Caswell M. Brown and Amanda Brown (the latter an applicant for intermarried rights); that Florence, Oscar, Benjamin, Andrew, Otis Newey Virgie and Prebble Peck are the children of the applicant, Polly Ann Peck and Andrew J. Peck (the latter an applicant for intermarried rights); that Willie Emma, Cassie and Goldie Brown are the children of the applicants, George G. Brown and Sarah Brown (the latter an applicant for intermarried rights); that Mary Ethel, William A. and Ollie McCarty are the children of the applicant, Bettie McCarty, and Oliver McCarty, a non-citizen; that James B. Nichols and Orin M. Nichols are the children of Wilson Nichols (now deceased), a non-citizen, and Melitha Cooper (now deceased), who is alleged to have been a Choctaw Indian and the daughter of John Cooper, above referred to; that John W. B. Nichols, Della May Scott and Nancy V. Nichols are the children of the applicant, James B. Nichols and Nancy C. Nichols (the latter an applicant for intermarried rights); that Louie Herman, Golda Uls and Sylvie Jewel Nichols are the children of the applicant, John W. B. Nichols and Bessie Nichols (the latter an applicant for

intermarried rights); that Nema May and Lite Lois Scott are the children of the applicant, Della May Scott, and Curris Scott, a non-citizen; that James W., Maggie M., Nettie Myrtle and Lonie A. Nichols are the children of the applicant, Orin M. Nichols and Amanda M. Nichols (the latter an applicant for intermarried rights); and that the applicant, Cora Lee and Daphne Myrtle Nichols, are the children of the applicants, James W. Nichols and Osa Nichols (the latter an applicant for intermarried rights).

The applicant, William P. Brown, claims his right to citizenship in the Choctaw Nation by the virtue of his marriage on February 10, 1858, under the laws of the state of Arkansas, to Becky Cooper (now deceased); that Nancy Brown claims her right to enrollment as a citizen by intermarriage by virtue of her marriage to the applicant, William N. Brown, on September 21, 1879; that Eli W. Brown claims his right to enrollment as a citizen by intermarriage by virtue of his marriage on August 21, 1899, under the laws, customs and usages of the Chickasaw Nation to the applicant, Becky Brown, both of said applicants being at said time residents in good faith of the Chickasaw Nation; that Amanda Brown claims her right to enrollment as a citizen by intermarriage by virtue of her marriage on December 2, 1886, to the applicant, Caswell M. Brown; that Andrew J. Peck claims his right to enrollment as a citizen by intermarriage by virtue of his marriage on December 15, 1887, under the laws of the state of Arkansas to the applicant, Polly A. Peck; that Sarah Brown claims her right to enrollment as a citizen by intermarriage by virtue of her marriage to George G. Brown on June 7, 1895; that the applicant, Nancy C. Nichols, claims her right to enrollment as a citizen by intermarriage by virtue of her marriage to the applicant, James P.

Nichols, on March 9, 1873; that the applicant, Bessie Nichols, claims her right to enrollment as a citizen by intermarriage by virtue of her marriage on September 11, 1898, to the applicant, John W. B. Nichols; that Amanda M. Nichols claims her right to enrollment as a citizen by intermarriage by virtue of her marriage on October 20, 1878, to the applicant, Orin M. Nichols; and that Osa Nichols claims her right to enrollment as a citizen by intermarriage by virtue of her marriage on April 27, 1899, to the applicant, James W. Nichols.

It does not appear from the record herein or from the records in the possession of this office that the applicant, Andrew J. Peck, has ever been admitted to Choctaw citizenship by a duly constituted court or committee of the Choctaw Nation, nor has said applicant ever been married to Polly Ann Peck, through whom he claims his intermarried rights, by virtue of a license issued by the tribal authorities of either the Choctaw or Chickasaw Nation.

At the hearing before the Commissioner to the five Civilized Tribes on May 21, 1906, William E. Brown, Caswell M. Brown, James B. Nichols and Orin M. Nichols testified that in 1894, they, together with the other applicants herein who were living at said time, petitioned the Choctaw Council for admission as citizens of the Choctaw Nation; that no action having been taken thereon, they, in 1896, appeared before the Choctaw Census Commission and made application to be enrolled upon the 1896 Choctaw Census Roll; and that some time in January, 1897, they received a certificate from the Secretary of the Choctaw Advisory Board, wherein it appeared that they had been enrolled upon the 1896 Choctaw Census Roll. Said applicants further testified

that prior to 1896 they had been permitted to issue permits for their tenants, hold lands, and were not subject to any tribal tax which was due from all non-citizens who were engaged in the mercantile business.

On June 4, 1906, John H. Gamblin testified that he was acquainted with the applicants herein, and that in October, 1894, he having business before the Choctaw Council, presented on behalf of the applicants herein who were living at that time, a petition praying that they be admitted as citizens of the Choctaw Nation, and that he does not know what action, if any, was ever taken thereon.

Upon an examination of the tribal rolls of the Choctaw Nation in the possession of this office, it appears that the applicants, William B. Brown, William N. Brown, Nancy J. Brown, Caswell M. Brown, Amanda Brown, Polly Ann Peck, Andrew J. Peck, George G. Brown, Sarah Brown, Nancy A. Brown, Pettie McCarty, Sarah Johnston, Pecky Brown, Mary Johnston, Mamie (or Minnie) Hudson, Alice Brown, George Brown, Susie Brown, Maudie Brown, Willie Brown, Florence Peck, Oscar Peck, Benjamin Peck, Andrew Peck, James B. Nichols, Nancy C. Nichols, Orin M. Nichols, Amanda M. Nichols, John W. B. Nichols, Della May Scott, Nancy V. Nichols, James W. Nichols, Maggie M. Nichols, Nettie Myrtle Nichols and Lonie A. Nichols, are identified upon the 1896 Choctaw census Roll opposite numbers 1688, 1691, 1692, 1701, 1702, 10518, 10517, 1705, 1706, 1689, 1690, 1693, 1694, 1695, 1696, 1697, 1698, 1699, 1703, 1704, 10519, 10520, 10521, 10522, 9803, 9806, 9812, 9813, 9809, 9810, 9811, 9814, 9815, 9816 and 9817, respectively.

It further appears from the record herein that all of

the applicants that were living on June 28, 1898, were residents in good faith of the Indian Territory on said date.

The evidence in this case further shows that the applicant, Daphne Myrtle Nichols, died on June 27, 1901.

I am of the opinion that in accordance with the opinions of the Assistant Attorney General for the department of the Interior of February 10, 1905 (I. T. D. 10353-1904) and December 8, 1905 (I. T. D. 3693-1905), in the case of Lula West; the action of the Commission to the Five Civilized Tribes, and the subsequent action of the United States Court for the southern District of Indian Territory, and the Choctaw and Chickasaw Citizenship Court, upon the right of the applicants who applied to the Commission to the Five Civilized Tribes in 1896, with the exception of Andrew J. Peck, was without authority of law, and of no force and effect upon the status of said applicants as citizens of the Choctaw Nation.

I am further of the opinion that the orders of the Commission to the Five Civilized Tribes of December 12, 1904 and March 18, 1905, dismissing the applications for the enrollment of Mary E. McCarty, William ~~Wanna~~ Johnston, Minnie Gertrude Brown, Fannie C. Brown, Henry Niten Brown, Elbert Knightington Brown, Otis Dewey Peck, Virgie Peck, Louie Herman Nichols and Golda Ula Nichols as citizens by blood of the Choctaw Nation, and Eli W. Brown, Pessie Nichols and Oma Nichols as citizens by intermarriage of the Choctaw Nation, should be rescinded.

I am further of the opinion that in accordance with the opinions of the Assistant Attorney General for the department of the Interior of March 3, 1905 (I. T. D. 187-1905) and March 10,

1906 (I. T. D. 9969-1905), Nancy A. Brown, Pattie McCarty, Mary Ethel McCarty, William N. Brown, Sarah Johnston, Pecky Brown, Mary Johnston, Mamie (or Minnie) Hudson, Alice Brown, George Brown, Susie Brown, William Erman Johnston, Minnie Gertrude Brown, Henry Niten Brown, Fannie C. Brown, Caswell M. Brown, Maudie Brown, Willie Brown, Elbert Knightington Brown, Polly A. Peck, Florence Peck, Oscar Peck, Benjamin Peck, Andrew Peck, Otis Dewey Peck, Virgie Peck, George G. Brown, Willie Emma Brown, James B. Nichols, Della May Scott, Nancy V. Nichols, John W. F. Nichols, Louie Herman Nichols, Golda Ula Nichols, Orin M. Nichols, James W. Nichols, Maggie M. Nichols, Nettie Myrtle Nichols and Lonie A. Nichols should be enrolled as citizens by blood of the Choctaw Nation, under the provisions of the acts of congress approved June 28, 1898 (30 Stats., 495) and July 1, 1902 (32 Stats., 641), and it is so ordered.

I am further of the opinion that William B. Brown, Nancy Brown, Eli W. Brown, Amanda Brown, Sarah Brown, Nancy C. Nichols, Bessie Nichols, Amanda M. Nichols and Osa Nichols should be enrolled as citizens by intermarriage of the Choctaw Nation, under the provisions of the Acts of Congress approved June 28, 1898 (30 Stats., 495) and July 1, 1902 (32 stats., 641), and it is so ordered.

I am further of the opinion that the application made for the enrollment of Andrew J. Peck as a citizen by intermarriage of the Choctaw Nation should be denied, under the provisions of the Act of Congress approved June 28, 1898 (30 stats., 495), and it is so ordered.

I am further of the opinion that William A. McCarty, Ollie McCarty, Oscar Lee Johnston, Willie Clarence Brown, Roy

-18-

Lester Johnston, Edna Arvel Johnston, Teddy Golden Johnston, Rubie Dill Brown, Annie Jewell Brown, Prebble Peck, Cassie Brown, Goldie Brown, Nema May Scott, Lite Lois Scott, Sylvie Jewel Nichols and Cora Lee Nichols should be enrolled as citizens by blood of the Choctaw Nation, under the provisions of the act of Congress approved April 26, 1906 (Public No. 129), and it is so ordered.

I am further of the opinion that the application made for the enrollment of Daphne Myrtle Nichols as a citizen by blood of the Choctaw Nation should be dismissed, and it is so ordered.

COMMISSIONER.

Muskogee, Indian Territory,

Aug 13 1906.

Muskogee, Indian Territory, August 13, 1906.

Bettie McCarty,

Tussey, Indian Territory.

Dear Madam:

Inclosed herewith you will find a copy of the decision of the Commissioner to the Five Civilized Tribes, rendered August 13, 1906, granting the application for the enrollment of yourself and children, Mary Ethel McCarty, William A. McCarty and Ollie McCarty as citizens by blood of the Choctaw Nation.

The decision, with the record of proceedings in the case, is this day transmitted to the Secretary of the Interior for review. The final decision of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

SIGNED

Commissioner.

Registered.

MAH 9/13

COPY

Muskogee, Indian Territory, August 15, 1906.

The Honorable,

The Secretary of the Interior.

SIR:

There is transmitted herewith the record of proceedings in the matter of the applications for the enrollment of William P. Brown et al., including my decision of August 13, 1906, granting the applications for the enrollment of Nancy A. Brown, Bettie McCarty, Mary Ethel McCarty, William W. Brown, Sarah Johnston, Becky Brown, Mary Johnston, Mamie (or Minnie) Hudson, Alice Brown, George Brown, Susie Brown, William Erman Johnston, Winnie Gertrude Brown, Henry Witen Brown, Fannie C. Brown, Caswell M. Brown, Maudie Brown, Willie Brown, Elbert Knightington Brown, Polly A. Peck, Florence Peck, Oscar Peck, Benjamin Peck, Andrew Peck, Otis Dewey Peck, Virgie Peck, George G. Brown, Willie Emma Brown, James B. Nichols, Della May Scott, Nancy V. Nichols, John W. B. Nichols, Louis Herman Nichols, Golda Ula Nichols, Orin M. Nichols, James W. Nichols, Maggie M. Nichols, Nettie Myrtle Nichols, Lonie A. Nichols, William A. McCarty, Ollie McCarty, Oscar Lee Johnston, Willie Clarence Brown, Ray Lester Johnston, Edna Arvel Johnston, Teddy Golden Johnston, Eubie Will Brown, Annie Jewell Brown, Prebbie Peck, Cassie Brown,

Secretary 2.

Goldie Brown, Emma May Scott, Lita Lois Scott, Sylvie Jewel Nichols and Ora Lee Nichols, as citizens by blood, and for the enrollment of William B. Brown, Nancy Brown, Eli W. Brown, Amanda Brown, Sarah Brown, Nancy C. Nichols, Bessie Nichols, Amanda M. Nichols and Osa Nichols, as citizens by intermarriage, of the Choctaw Nation; denying the application for the enrollment of Andrew J. Peck as a citizen by intermarriage, and dismissing the application for the enrollment of Daphne Myrtle Nichols, as a citizen by blood, of the Choctaw Nation.

Respectfully,

Through the
Commissioner of Indian Affairs.

Commissioner.

2 Incl. FAH 13/11

Choctaw 6017

William N. Brown

Aug. 13, 1906 Granted

March 1, 1907 Decision of Commission reversed by Dept & asked schedules containing names of applicants to disapprove

Transferred from Choc card 5060-See C-50

Duplicate record bound
3-1-09 Dept request report

6-27-09 Parties notified

6017

O. L. J.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of William B. Brown, et al., as citizens of the Choctaw Nation, consolidating the applications of

William B. Brown, et al.	7-5096.
William W. Brown, et al.	7-5060.
Eli W. Brown, et al.	7-D-432.
Caswell M. Brown, et al.	7-5066.
Andrew J. Peck, et al.	7-5062.
George G. Brown, et al.	7-5098.
James B. Nichols, et al.	7-5100.
John W. B. Nichols, et al.	7-5097.
Orin M. Nichols, et al.	7-5061.
Osa Nichols, et al.	7-D-509.

D E C I S I O N.

It appears from the census card records in this case that on September 22, 1898, application was made to the Commission to the Five Civilized Tribes for the enrollment of William B. Brown (sixty-one years of age), as a citizen by intermarriage of the Choctaw Nation, and for the enrollment of his two children, Nancy A. Brown (twenty-three years of age) and Bettie Brown, now McCarty (nineteen years of age), as citizens by blood of the said nation; on September 22, 1898, for the enrollment of William W. Brown (thirty-nine years of age), and his seven minor children, Sarah Brown, now Johnston (eighteen years of age), Becky Brown (sixteen years of age), Mary Brown, now Johnston (thirteen years of age), Mamie (or Winnie)

Brown, now Hudson (eleven years of age), Alice Brown (eight years of age), George Brown (five years of age) and Gusie Brown (one year of age), as citizens by blood of the Choctaw Nation, and for the enrollment of Nancy Brown (thirty-six years of age) as a citizen by intermarriage of said nation; on September 5, 1899, for the enrollment of Eli W. Brown (twenty-eight years of age) as a citizen by intermarriage of the Choctaw Nation; on September 22, 1898, for the enrollment of Caswell K. Brown (thirty-four years of age), and his two minor children, Maudie (ten years of age) and Willie Brown (six years of age), as citizens by blood of the Choctaw Nation, and on October 18, 1898, for the enrollment of his wife, Amanda Brown (thirty-one years of age), as a citizen by intermarriage of said nation; on September 22, 1898, for the enrollment of Andrew J. Peck (thirty-two years of age) as a citizen by intermarriage of the Choctaw Nation, and for the enrollment of his wife, Polly A. Peck (thirty years of age), and his five minor children, Florence (nine years of age), Oscar (seven years of age), Benjamin G. (five years of age), Andrew (three years of age), and Otis Newey Peck (two months of age), as citizens by blood of said nation; on September 22, 1898, for the enrollment of George G. Brown (twenty-six years of age), and his minor daughter, Willie Emma Brown (three years of age), as citizens by blood of the Choctaw Nation, and for the enrollment of his wife, Sarah Brown (twenty-one years of age), as a citizen by intermarriage of said nation; on September 22, 1898, for the enrollment of James B. Nichols (forty-eight years of age), and his two minor children, Della May Nichols, now Gott (fourteen years of age), and Nancy V. Nichols (seven years of age), as citizens by blood of the Choctaw Nation, and for the enrollment of his wife, Nancy U. Nichols (forty-two years of age), as a

citizens by intermarriage of said nation; on september 22, 1898, for the enrollment of John W. B. Nichols (twenty-four years of age) as a citizen by blood of the Choctaw Nation, and for the enrollment of his wife, Bessie Nichols (eighteen years of age), as a citizen by intermarriage of said nation; on september 22, 1898, for the enrollment of Orin M. Nichols (forty-four years of age), and his four minor children, James W. (eighteen years of age), Maggie M. (twelve years of age), Nettie Myrtle (eight years of age), and Lonie A. Nichols (four years of age), as citizens by blood of the Choctaw Nation, and for the enrollment of his wife, Amanda M. Nichols (thirty-eight years of age), as a citizen by intermarriage of said nation; and on september 25, 1899, for the enrollment of Osa Nichols (seventeen years of age) as a citizen by intermarriage of the Choctaw Nation.

Applications were subsequently made for the enrollment of the following minor applicants as citizens by blood of the Choctaw Nation: On January 20, 1902, for the enrollment of Mary Ethel McCarty (born December 8, 1901); on May 31, 1906, for the enrollment of William A. McCarty (born April 21, 1904) and Ollie McCarty (born February 14, 1906); on October 13, 1900, for the enrollment of William Erman Johnston (born June 30, 1900); on October 19, 1900, for the enrollment of Minnie Gertrude Brown (born August 13, 1900); on May 16, 1901, for the enrollment of Fannie C. Brown (born February 11, 1901); on April 29, 1905, for the enrollment of Oscar Lee Johnston (born November 14, 1902); on April 29, 1905, for the enrollment of Willie Clarence Brown (born April 8, 1903); on July 12, 1902, for the enrollment of

Henry Witen Brown, (born May 21, 1902); on April 29, 1905, for the enrollment of Roy Lester Johnston (born October 28, 1903); on May 21, 1906, for the enrollment of Edna Arvel Johnston (born March 21, 1905); on April 14, 1905, for the enrollment of public Dill Brown (born February 12, 1904); in 1899, for the enrollment of Elbert Knightington Brown (born October 8, 1899); on April 7, 1905, for the enrollment of Annie Jewell Brown (born December 2, 1902); on December 10, 1901, for the enrollment of Virgie Peck (born October 11, 1901); on April 8, 1905, for the enrollment of Prebble Peck (born February 19, 1904); on May 21, 1906, for the enrollment of Cassie Brown (born May 30, 1900) and Goldie Brown (born September 5, 1904); on April 17, 1905, for the enrollment of Nema May Scott (born May 15, 1903) and Lita Lois Scott (born February 1, 1906); on September 1, 1900, for the enrollment of Louie Herman Nichols (born August 19, 1900); on December 27, 1901, for the enrollment of Golda Ula Nichols (born September 15, 1901); on April 1, 1905, for the enrollment of Sylvie Jewel Nichols (born August 26, 1903); on April 14, 1905, for the enrollment of Cora Lee Nichols (born November 6, 1902); on April 6, 1901, for the enrollment of Daphne Myrtle Nichols (born February 20, 1901); and on May 21, 1906, for the enrollment of Teddy Golden Johnston (born June 18, 1905).

It appears from the records of the commission to the Five Civilized Tribes that on September 9, 1896, in the case entitled "Nancy Cooper, et al. vs. Choctaw Nation" (1896 Choctaw citizenship Docket, Case No. 1418), original application was made to said Commission, under the provisions of the Act of Congress approved June 10, 1896 (29 Stats., 521), for admission to

citizenship in the Choctaw Nation of the applicants, Nancy A. Brown (as Nancy Alice Brown), Pettie McCarty (as Rebecca Elizabeth Brown), William H. Brown (as William Hiten Brown), Sarah Johnston (as Sarah Elizabeth Brown), Pecky Brown (as Rebecca Catherine Brown), Mary Brown (as Mary Arrillie Brown), Mamie (or Minnie) Hudson (as Minnie Ann Brown), Alice Brown, George Brown (as George Montgomery Brown), Caswell M. Brown, Maudie Brown (as Mandy E. Brown), Willie Brown (as William G. Brown), Polly A. Peck (as Polly Ann Peck), Florence Peck (as Minnie F. Peck), Oscar Peck (as Oscar S. Peck), Benjamin Peck (as Benjamin G. Peck), Andrew Peck, George G. Brown, Willie ~~guma~~ Brown, James B. Nichols (as James Bruton Nichols), Della May Scott (as Mary Della May Nichols), Nancy V. Fannie Velma Nichols), John W. B. Nichols (as John William Pethuel Nichols), Orin M. Nichols (as Orrin Maybery Nichols), James W. Nichols (as James Willis Nichols), Maggie M. Nichols (as Maggie May Nichols), Nettie Myrtle Nichols, Lonie A. Nichols (as Lena Alta Nichols), as citizens by blood of said nation, and for the admission of William B. Brown, Nancy J. Brown (as Nancy Jane Brown), Amanda Brown, Andrew J. Peck (as A. J. Peck), Sarah Brown, Nancy C. Nichols (as Nancy Caroline Nichols), and Amanda M. Nichols (as Amanda Melvina Nichols), as citizens by intermarriage of said nation; and that on December 8, 1896, said Commission rendered its decision therein, denying the application of the above named applicants for enrollment as citizens of the Choctaw Nation.

From the decision of said Commission an appeal was taken to the United States Court for the Southern District of Indian Territory, which court on December 27, 1897, in the case

entitled "Nancy J. Cooper, et al. vs. Choctaw Nation" (southern District Citizenship Case No. 96), admitted Nancy A. Brown (as Nancy Alice Brown), Bettie McCarty (as Bettie Brown), Sarah Johnson (as Sarah Brown), Becky Brown, Mary Brown, Mamie (or Minnie) Hudson (as Mamie Brown), Alice Brown, George Brown, Susie Brown, Caswell M. Brown (as Caswell Marion Brown), Maudie Brown, Willie Brown, Polly A. Peck (as Polly Ann Peck), Florence Peck, Oscar Peck, Benjamin Peck (as Benjamin Grant Peck), Andrew Peck, George G. Brown, Willie Emma Brown, James F. Nichols (as James Bruton Nichols), Della May Scott (as Dell May Nichols), Nancy V. Nichols (as Nancy Velmer Nichols), Orin M. Nichols (as Orin Mayberry Nichols), James W. Nichols (as James Willis Nichols), Maggie M. Nichols (as Maggie May Nichols), Nettie Myrtle Nichols (as Myrtle Nichols), and Lonie A. Nichols (as Lonie Alta Nichols), as citizens by blood of the Choctaw Nation, and William F. Brown (as William Pluford Brown), Andrew J. Peck (as Andrew Jackson Peck), and Nancy C. Nichols (as Nancy Caroline Nichols), as citizens by intermarriage of said nation, and denied the applications for the admission of Nancy J. Brown (as Nancy Jane Brown), Sarah Brown, and Amanda M. Nichols (as Amanda Melvina Nichols), as citizens by intermarriage of the Choctaw Nation. The name of the applicant, Susie Brown, was interpolated in the judgment of said court, she not having been an applicant before the Commission to the five Civilized Tribes in 1896.

On March 18, 1898, said case again came before said court upon a motion of the plaintiffs' attorneys to correct the Judgment of said court rendered December 20, 1897, and the court, thereupon, ordered said judgment corrected so as to admit the

applicants, Nancy J. Brown (as Nancy Jane Brown), Sarah Brown, Amanda M. Nichols (as Amanda Melvina Nichols), as citizens by intermarriage of the Choctaw Nation.

On September 28, 1898, said court rendered a supplemental judgment admitting Amanda Brown as a citizen by intermarriage of the Choctaw Nation.

On January 17, 1900, this cause again came before said court upon a motion of the defendant to strike out of the judgment theretofore rendered, certain names improperly admitted to citizenship, and said court being fully advised, ordered that the following names, Susie Brown, Andrew J. Peck (as Andrew Jackson Peck), Rattie McCarty (as Rattie Brown), and Pecky Brown, be stricken from said former judgment.

Subsequently, upon the representation of the plaintiffs' attorneys that certain persons who were original applicants were by oversight or mistake left out of the original judgment theretofore rendered, the court ordered that the applicants, Nancy J. Brown (as Nancy Jane Brown), Sarah Brown, Amanda Brown, Amanda M. Nichols and Rebecca E. Brown be admitted to citizenship in the Choctaw Nation.

It further appears from the records of said commission that on December 17, 1902, the Choctaw and Chickasaw citizenship Court, created under the provisions of the Act of Congress Approved July 1, 1902 (32 Stats., 641), "set aside, annulled, vacated and held for naught" the aforesaid judgment of the United States Court for the Southern District of Indian Territory.

Thereafter, the record in the above case was certified to the Choctaw and Chickasaw citizenship Court, for a trial de novo, which court, on November 29, 1904, in the case entitled, William

Neighton Brown, et al. vs. Choctaw and Chickasaw Nations" (Choctaw-Chickasaw Citizenship Court Case No. 73, Tishomingo docket), "ordered, adjudged and decreed that the petition of the plaintiffs, William Neighton Brown (or William Knighton Brown), Caswell Marion Brown, Polly Ann Peck (nee Brown), George R. Brown (or George G. Brown), Foney Ellis Brown (or Foney Alice Brown), Sarah Brown, Mary Brown, Monie Brown (or Mamie Brown), Alice Brown, George Brown, Mondie Brown (or Maudie Brown), Willie Brown, Florence Peck, Oscar Peck, Benjamin Grant Peck, Andrew Peck, William Emma Brown (or Willie Emma Brown), James purton Nichols (or James Bruton Nichols), Oney Mayberry Nichols (or Orin Mayberry Nichols), John William Peffle Nichols, Della May Nichols, Nancy Velmor Nichols, James Willis Nichols, Maggie May Nichols, Myrtle Nichols, Lonie Alta Nichols, William Buford Brown, Nancy Caroline Nichols, Rebecca E. Brown (or Pecky Brown), Rebecca C. Brown (or Rebecca Brown), Amanda Melvina Nichols, Amanda Brown, Nancy J. Brown (or Nancy Jane Brown), Sarah Brown, be denied, and that they be declared not citizens of the Choctaw Nation, and not entitled to enrollment as such citizens, and not entitled to any rights whatever flowing therefrom."

On December 12, 1904, orders were entered of record by the Commission to the Five Civilized Tribes dismissing the applications for the enrollment of Mary E. McCarty, William Brian Johnston, Minnie Gertrude Brown, Henry Witen Brown, Albert Knightington Brown, Otis Dewey Peck, Virgie Peck, Louis Herman Nichols and Golda Ula Nichols as citizens by blood of the Choctaw Nation, and on March 18, 1905, an order was entered of record dismissing the application for the enrollment of Fannie C. Brown as a citizen by

blood of said nation. All of said applicants were dismissed for the reason that their parents through whom they claim their rights to enrollment as citizens by blood of the Choctaw Nation, had been denied by a decree of the Choctaw and Chickasaw Citizenship Court.

On December 12, 1904, orders were entered of record by the Commission to the Five Civilized Tribes dismissing the applications for the enrollment of Eli W. Brown, Fessie Nichols and Osa Nichols as citizens by intermarriage of the Choctaw Nation, for the reason that the persons through whom they claim their rights had also been denied by a decree of the Choctaw and Chickasaw Citizenship Court.

On March 30, 1905, the Commission to the Five Civilized Tribes denied the application for the enrollment of Gusie Brown as a citizen by blood of the Choctaw Nation, and on April 6, 1906 (I. T. D. 3810-1905), the Department set aside said decision of the Commission and returned the record to this office for a full investigation upon its merits.

Under the regulations adopted by the Commissioner to the Five Civilized Tribes of January 2, 1906, there was filed on February 6, 1906, by Cruise, Cruise and Pleakmore, of Ardmore, Indian Territory, attorneys for the petitioners, petitions praying that William B. Brown, Nancy A. Brown, Minnie Hudson, Sarah Johnston, Oscar Lee Johnston, William Brian Johnston, Rebecca Brown, Minnie Gertrude Brown, Henry Eiten Brown, Rubie Dill Brown, Eli W. Brown, Mary A. Johnston, Roy Lester Johnston, Edna A. Johnston, Rebecca McCarty, William A. McCarty, Mary E. McCarty, William H. Brown, Nancy Jane Brown, George Brown, Alice Brown, Gusie Brown, Cletus Brown, Clarence Brown, A. J. Peck, Polly Ann Peck, Minnie Peck, Oscar Sherman Peck, Benjamin Grant Peck, Andrew Peck, O. D. Peck,

Virgie Peck, Prebble Peck, C. M. Brown, Amanday Brown, Naudy Brown, William Brown, Elbert K. Brown, Annie Jewel Brown, George G. Brown, Sarah Brown, Willie Emma Brown, Cassie Brown, Goldie Brown, J. B. Nichols, Nancy Nichols, Palma Nichols, John W. B. Nichols, Passie Deaton Nichols, Louis Herman Nichols, Golda Gale Nichols, Silva Jewel Nichols, Della May Scott, Wema Scott, Orin M. Nichols, Amanda Nichols, Myrtle Nichols, Lonie Nichols, James W. Nichols, Osa Nichols, Cora Lee Nichols and Margie Angel be enrolled as citizens of the Choctaw Nation.

All the above petitioners, with the exception of Ollie McCarty, Lita Lois Scott, Daphne Myrtle Nichols and Teddy Golden Johnston, are identical with the applicants for whom application has been made for enrollment as citizens of the Choctaw Nation.

On April 16, 1906, the principal petitioners, their attorneys, Cruce, Cruce & Bleakmore, of Ardmore, Indian Territory, and Messrs. Mansfield, McMurray & Cornish, attorneys for the Choctaw and Chickasaw Nations, of South McAlester, Indian Territory, were advised that the Commissioner to the Five Civilized Tribes would at his office at Muskogee, Indian Territory, on Monday, May 14, 1906, at nine o'clock A. M., hear such testimony and receive such other evidence as might be submitted by the petitioners in support of their applications for enrollment as citizens of the Choctaw Nation, and by the attorneys for the Choctaw and Chickasaw Nations.

On April 16, 1906, William E. Brown, father of Gusie Brown, Cruce, Cruce & Bleakmore, attorneys for said Gusie Brown, and Mansfield, McMurray & Cornish, attorneys for the Choctaw and Chickasaw Nations, were advised that on April 6, 1906, the department set aside the decision rendered by the commission on March 29, 1905, and returned the record in said case with in-

structions that a full investigation be made of the rights of said Susie Brown to enrollment as a citizen by blood of the Choctaw Nation; that the testimony of creditable witnesses be required showing her Choctaw blood, if any, the time and place of her birth, her various residences, her ancestors, the privileges, if any, enjoyed by her and her parents as citizens of the Choctaw Nation; and notified that the Commissioner to the five civilized Tribes would at his office at Muskogee, Indian Territory, on Monday, May 14, 1906, at nine o'clock A. M., hear such testimony and receive such other evidence as might be submitted in support of said application, investigation to be conducted along the lines indicated by Department letter above referred to.

On motion of Attorney for applicants, the hearing in the matter of the above application was continued on April 26, 1906, to May 21, 1906.

On May 21, 1906, proceedings were had in the matter of said applications in pursuance to the notices above mentioned.

It appears from the record herein that the applicants, William H. Brown, Caswell M. Brown, Polly Ann Peck, George G. Brown, Nancy A. Brown and Bettie McCarty, are the children of the principal applicant, William B. Brown, and Rebecca Cooper (now deceased), who is alleged to have been a Choctaw Indian, and the daughter of William Cooper, who was the son of Johnny Cooper, an alleged Choctaw Indian, who resided near the line between the states of Tennessee and Mississippi; that Sarah Johnston, Becky Brown, Mary Johnston, Mamie (or Minnie) Hudson, Alice Brown, George Brown, Susie Brown, Fannie C. Brown and Willie Clarence Brown, are the children of the applicants

William N. Brown and Nancy J. Brown, (the latter an applicant for intermarried rights); that William Erman, Oscar Lee and Teddy Golden Johnston are the children of the applicant, Sarah Johnston, and J. A. Johnston, a non-citizen; that Winnie Gertrude, Henry Niten and Rubie Dill Brown are the children of the applicants, Becky Brown and Eli W. Brown, (the latter an applicant for intermarried rights); that Roy Lester and Edna Arvel Johnston are the children of the applicant, Mary Johnston, and Jace J. Johnston, a non-citizen; that Vaudie, Willie, Elbert Knightington, and Annie Jewell Brown are the children of the applicant, Caswell M. Brown and Amanda Brown (the latter an applicant for intermarried rights); that Florence, Oscar, Benjamin, Andrew, Otis Newey Virgie and Prabelle Peck are the children of the applicant, Polly Ann Peck and Andrew J. Peck (the latter an applicant for intermarried rights); that Willie Emma, Cassie and Goldie Brown are the children of the applicants, George G. Brown and Sarah Brown (the latter an applicant for intermarried rights); that Mary Ethel, William A. and Ollie McCarty are the children of the applicant, Fattie McCarty, and Oliver McCarty, a non-citizen; that James B. Nichols and Orin W. Nichols are the children of Wilson Nichols (now deceased), a non-citizen, and Melita Cooper (now deceased), who is alleged to have been a Choctaw Indian and the daughter of John Cooper, above referred to; that John W. B. Nichols, Della May Scott and Nancy V. Nichols are the children of the applicant, James B. Nichols and Nancy C. Nichols (the latter an applicant for intermarried rights); that Louis Herman, Golda Ula and Sylvie Jewel Nichols are the children of the applicant, John W. B. Nichols and Fessie Nichols (the latter an applicant for

intermarried rights); that Nera May and Lita Lois Scott are the children of the applicant, Della May Scott, and Purris Scott, a non-citizen; that James W., Maggie M., Mettie Myrtle and Lonie A. Nichols are the children of the applicant, Orin M. Nichols and Amanda M. Nichols (the latter an applicant for intermarried rights); and that the applicant, Cora Lee and Daphne Myrtle Nichols, are the children of the applicants, James W. Nichols and Osa Nichols (the latter an applicant for intermarried rights).

The applicant, William E. Brown, claims his right to citizenship in the Choctaw Nation by the virtue of his marriage on February 10, 1858, under the laws of the state of Arkansas, to Becky Cooper (now deceased); that Nancy Brown claims her right to enrollment as a citizen by intermarriage by virtue of her marriage to the applicant, William E. Brown, on September 21, 1879; that Eli W. Brown claims his right to enrollment as a citizen by intermarriage by virtue of his marriage on August 21, 1890, under the laws, customs and usages of the Chickasaw Nation to the applicant, Becky Brown, both of said applicants being at said time residents in good faith of the Chickasaw Nation; that Amanda Brown claims her right to enrollment as a citizen by intermarriage by virtue of her marriage on December 2, 1886, to the applicant, Caswell M. Brown; that Andrew J. Peck claims his right to enrollment as a citizen by intermarriage by virtue of his marriage on December 15, 1887, under the laws of the state of Arkansas to the applicant, Pally A. Peck; that Sarah Brown claims her right to enrollment as a citizen by intermarriage by virtue of her marriage to George G. Brown on June 9, 1898; that the applicant, Nancy G. Nichols, claims her right to enrollment as a citizen by intermarriage by virtue of her marriage to the applicant, James E.

Nichols, on March 9, 1873; that the applicant, Fessie Nichols, claims her right to enrollment as a citizen by intermarriage by virtue of her marriage on September 11, 1898, to the applicant, John W. B. Nichols; that Amanda M. Nichols claims her right to enrollment as a citizen by intermarriage by virtue of her marriage on October 20, 1878, to the applicant, Orin M. Nichols; and that Osa Nichols claims her right to enrollment as a citizen by intermarriage by virtue of her marriage on April 27, 1899, to the applicant, James W. Nichols.

It does not appear from the record herein or from the records in the possession of this office that the applicant, Andrew J. Peck, has ever been admitted to Choctaw citizenship by a duly constituted court or committee of the Choctaw Nation, nor has said applicant ever been married to Polly Ann Peck, through whom he claims his intermarried rights, by virtue of a license issued by the tribal authorities of either the Choctaw or Chickasaw Nation.

At the hearing before the Commissioner to the Five Civilized Tribes on May 21, 1906, William W. Brown, Caswell M. Brown, James B. Nichols and Orin M. Nichols testified that in 1894, they, together with the other applicants herein who were living at said time, petitioned the Choctaw Council for admission as citizens of the Choctaw Nation; that no action having been taken thereon, they, in 1896, appeared before the Choctaw Census Commission and made application to be enrolled upon the 1896 Choctaw Census Roll; and that some time in January, 1897, they received a certificate from the Secretary of the Choctaw Advisory Board, wherein it appeared that they had been enrolled upon the 1896 Choctaw Census Roll. Said applicants further testified

that prior to 1896 they had been permitted to issue permits for their tenants, held lands, and were not subject to any tribal tax which was due from all non-citizens who were engaged in the mercantile business.

On June 4, 1906, John H. Gamblin testified that he was acquainted with the applicants herein, and that in October, 1894, he having business before the Choctaw Council, presented on behalf of the applicants herein who were living at that time, a petition praying that they be admitted as citizens of the Choctaw Nation, and that he does not know what action, if any, was ever taken thereon.

Upon an examination of the tribal rolls of the Choctaw Nation in the possession of this office, it appears that the applicants, William B. Brown, William E. Brown, Nancy J. Brown, Caswell M. Brown, Amanda Brown, Polly Ann Peck, Andrew J. Peck, George G. Brown, Sarah Brown, Nancy A. Brown, Pettie McGarty, Sarah Johnston, Becky Brown, Mary Johnston, Mamie (or Minnie) Hudson, Alice Brown, George Brown, Susie Brown, Maudie Brown, Willie Brown, Florence Peck, Oscar Peck, Benjamin Peck, Andrew Peck, James B. Nichols, Nancy C. Nichols, Orin M. Nichols, Amanda M. Nichols, John W. B. Nichols, Della May Scott, Fanny V. Nichols, James W. Nichols, Maggie M. Nichols, Nettie Myrtle Nichols and Louie A. Nichols, are identified upon the 1896 Choctaw census Roll opposite numbers 1688, 1691, 1692, 1701, 1702, 10518, 10519, 1705, 1706, 1689, 1690, 1693, 1694, 1695, 1696, 1697, 1698, 1699, 1703, 1704, 10519, 10520, 10521, 10522, 9803, 9806, 9812, 9813, 9809, 9810, 9811, 9814, 9815, 9816 and 9817, respectively.

It further appears from the record herein that all of

the applicants that were living on June 28, 1898, were residents in good faith of the Indian Territory on said date.

The evidence in this case further shows that the applicant, Daphne Myrtle Nichols, died on June 27, 1901.

I am of the opinion that in accordance with the opinions of the Assistant Attorney General for the department of the Interior of February 10, 1905 (I. T. D. 10353-1904) and December 8, 1905 (I. T. D. 3693-1905), in the case of Lula West, the action of the Commission to the Five Civilized Tribes, and the subsequent action of the United States Court for the southern district of Indian Territory, and the Choctaw and Chickasaw Citizenship Court, upon the right of the applicants who applied to the Commission to the Five Civilized Tribes in 1896, with the exception of Andrew J. Peck, was without authority of law, and of no force and effect upon the status of said applicants as citizens of the Choctaw Nation.

I am further of the opinion that the orders of the Commission to the Five Civilized Tribes of December 12, 1904 and March 18, 1905, dismissing the applications for the enrollment of Mary E. McCarty, William Brown Johnston, Minnie Gertrude Brown, Fannie C. Brown, Henry Witen Brown, Elbert Knightington Brown, Otis Dewey Peck, Virgie Peck, Louis Herman Nichols and Golda Ula Nichols as citizens by blood of the Choctaw Nation, and Eli W. Brown, Bessie Nichols and Osa Nichols as citizens by intermarriage of the Choctaw Nation, should be rescinded.

I am further of the opinion that in accordance with the opinions of the Assistant Attorney General for the department of the Interior of March 3, 1906 (I. T. D. 187-1905) and March 10,

1906 (I. T. D. 9969-1906), Nancy A. Brown, Bettie McCarty, Mary Ethel McCarty, William N. Brown, Sarah Johnston, Becky Brown, Mary Johnston, Mamie (or Minnie) Hudson, Alice Brown, George Brown, Susie Brown, William Herman Johnston, Minnie Gertrude Brown, Henry Niten Brown, Fannie C. Brown, Caswell M. Brown, Maudie Brown, Willie Brown, Elbert Knightington Brown, Polly A. Beck, Florence Peck, Oscar Peck, Benjamin Peck, Andrew Peck, Otis Dewey Peck, Virgie Peck, George G. Brown, Willie Emma Brown, James B. Nichols, Della May Scott, Nancy V. Nichols, John W. R. Nichols, Louie Herman Nichols, Golda Ula Nichols, Orin M. Nichols, James W. Nichols, Maggie M. Nichols, Nettie Myrtle Nichols and Lonie A. Nichols should be enrolled as citizens by blood of the Choctaw Nation, under the provisions of the acts of congress approved June 28, 1898 (30 Stats., 495) and July 1, 1902 (32 Stats., 641), and it is so ordered.

I am further of the opinion that William B. Brown, Nancy Brown, Eli W. Brown, Amanda Brown, Sarah Brown, Nancy C. Nichols, Bessie Nichols, Amanda M. Nichols and Osa Nichols should be enrolled as citizens by intermarriage of the Choctaw Nation, under the provisions of the Acts of Congress approved June 28, 1898 (30 Stats., 495) and July 1, 1902 (32 Stats., 641), and it is so ordered.

I am further of the opinion that the application made for the enrollment of Andrew J. Peck as a citizen by intermarriage of the Choctaw Nation should be denied, under the provisions of the Act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered.

I am further of the opinion that William A. McCarty, Allie McCarty, Oscar Lee Johnston, Willie Clarence Brown, Roy

-18-

Lester Johnston, Edna Arvel Johnston, Teddy Golden Johnston, Rubie Dill Brown, Annie Jewell Brown, Prebble Peck, Cassie Brown, Goldie Brown, Nema May Scott, Lita Lois Scott, Sylvie Jewel Nichols and Cora Lee Nichols should be enrolled as citizens by blood of the Choctaw Nation, under the provisions of the Act of Congress approved April 26, 1906 (Public No. 129), and it is so ordered.

I am further of the opinion that the application made for the enrollment of Daphne Myrtle Nichols as a citizen by blood of the Choctaw Nation should be dismissed, and it is so ordered.

COMMISSIONER.

Muskogee, Indian Territory,

Aug 13 1906.

Refer in reply to
the following:
Land-
Population
24078-1910
J E B

2-29162

Address only the
Commissioner of Indian
Affairs

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,

Enrollment claim of WASHINGTON.
William B. Brown, et al.

Mar. 29 1910

The Commissioner
to the Five Civilized Tribes,
Muskogee, Oklahoma.

Sir:

On November 26, 1909, W. E. Field, attorney at law,
Washington, D. C., filed a brief in support of a motion for a
rehearing and review in the consolidated Choctaw enrollment case
of William B. Brown, et al.

There is transmitted herewith for your information a
copy of Department letter of March 22, 1910, denying said motion.
There is also inclosed a copy of Office letter of December 4,
1909, in said case.

Very respectfully,

John Francis Jr.
Acting Chief Land Division.

KH-24
2826

G.G.A.

Copy

J.W.H.

DEPARTMENT OF THE INTERIOR.
WASHINGTON.

D-7339.

Office of Indian
Affairs.
Received
Mar 23, 1910
File 24078

Commissioner of Indian Affairs.

Sir:

A petition has been filed for a rehearing and review in the matter of the Choctaw enrollment case of William B. Brown et al., which was the subject of your letter of May 17, 1909, approved June 15, 1909, recommending that the Department take no action looking to the enrollment of any of the applicants included in said case.

It is urged that the applicants were found to be entitled to enrollment by the Secretary of the Interior and that therefore they should be accorded the status of recognized citizens of the Choctaw nation. It appears, however, from the records of the Department that the decision by which they were adjudged to be entitled to enrollment, and upon which they apparently rely, was rendered by the Commissioner to the Five Civilized Tribes; that said decision was not affirmed by the Secretary of the Interior, and that the names of the applicants do not appear upon the final rolls approved by the Secretary.

Premises considered, the petition is hereby denied and you are requested to advise the parties in interest as-

cordingly. The petition and the letter received with it
are inclosed for the files of your office.

This letter will be regarded as a substitute for
departmental letter of March 5, 1910, relating to said case.

Very respectfully,

(Signed) Frank Pierce
First Assistant Secretary.

Land
Population
95202-1909
J E D

Enrollment case
of William B. Brown,
et al.

Dec, 4, 1909

W. S. Field, Esq.

Attorney at Law,

No. 926 Colorado Building,

Washington, D. C.

Sir:

Referring to your letter of November 26, 1909 and to the brief filed therewith, relative to the consolidated Choctaw enrollment case of William B. Brown, et al., you are advised that the statements contained in your brief do not accord with the facts in the case as shown by the record.

On March 1, 1907 the Department rendered its decision denying the applicants enrollment and disapproved the schedules containing their names. It does not appear that their names were ever on any roll or schedule of citizens of the Choctaw Nation prepared by the Commission or the Commissioner to the Five Civilized Tribes and approved by the Department or that the Department ever instructed the Commission or the Commissioner to place the names of the applicants on the roll for approval; neither does the record show that the Department ever rendered any decision favorable to their enrollment.

L-65202-2

On May 17, 1909 the Department held that the case of William B. Brown, et al., was not analogous to that of John B. Goldsby and did not come within the principles announced by the Supreme Court of the United States in its decision of November 30, 1908 (211 U. S., 249) in that case.

The Department, therefore, declined to take any action looking to the enrollment of the applicant included in the consolidated case of William B. Brown, et al.

In view of the record in the case and of the Department's action therein, the Office can see no reason for recommending legislation in behalf of the applicants in said case.

Very respectfully,

(Signed) F. E. Abbott,

Assistant Commissioner.

HAS-30
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7-5096

Muskogee, Indian Territory, July 20, 1906.

Cruce, Cruce & Bleakmore,

Attorneys at Law,

Armore, Indian Territory.

Dear Sir:-

In compliance with your request of July 6, 1906, there is enclosed herewith copy of testimony taken May 21, 1906, and June 4, 1906, in the matter of the application for the enrollment of William H. Brown, et al, as citizens of the Choctaw Nation, together with receipt therefor which please return to this office.

Respectfully,

Encl.WLM. 20/1

Commissioner.

D.O.M.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

J.V.H.
W.C.R.
J.V.L.

GVV
File-5-51.

March 1, 1909.

The Commissioner
to the Five Civilized Tribes,

Sir:

January 25, 1909, you were advised that the names of certain persons were inadvertently included in Departmental letter of January 19, 1909 (File 5-51); that such mistake was due to the fact that it was supposed they were enrolled upon schedules approved by the Department, when in fact, the only schedules upon which their names appear were disapproved, and that no action should be taken under the circumstances looking to the erasure of interlineations or notations, if any, from the disapproved schedules, in connection with their names.

The names of the persons referred to in said letter of January 25, 1909, are as follows:

Choctaws by Blood:

A Roll No.

16103

Elizabeth Allen.

16112

George A. Bunker.

16110

Louittia Gratchfield.

16105

Everett Crutchfield.

16111	George W. Crutchfield
16106	Ida Crutchfield,
16107	Ina Crutchfield,
16108	Levinia Crutchfield
16109	William Crutchfield,
921	Josephine Laflere Long,
922	Eake Laflere Long.
16104	David Ritter

It now appears from the records of the Secretary's Office that there was a schedule approved May 21, 1904, by the Secretary of the Interior, and that the approval, then given was cancelled by said Secretary at a later date, to wit, June 28, 1904.

The name of Elisabeth Allen appears upon the schedule which was approved May 21, 1904, opposite the number 15561. Ida Crutchfield's name appears opposite No. 15553, while the other members of the Crutchfield family were given the numbers immediately following that assigned to her.

You are requested to cause a report to be prepared showing whether the records of your office also show that an earlier schedule containing the names of said persons was approved May 21, 1904; also whether such approval was cancelled June 28, 1904. please report also the reason for the attempted cancellation, and whether prior notice as given thereof.

It appears further that, in connection with the names of Elizabeth Allen and the Grutchfield family on the roll approved May 21, 1904, the names of Ardella Hickman, Ida M. Southard and Grever Randall are also to be found.

In connection with said names, it is desired that you will report what action, in your opinion, should be taken concerning the first of said persons; also whether the said Ida M. Southard and Grever Randall, respectively, are identical with the Ida M. Southard whose name appears opposite No. 15000 in the printed rolls of citizens by blood of the Choctaw Nation, and the Grever Randall whose name appears on page 8 of Departmental letter of January 19, 1906 (File 5-51), opposite No. 15928.

As appears from the above list, there were other persons besides the said Allen and Grutchfields whose names were enrolled on schedules which were finally disapproved by the Department: for example, George A. Bungarner, Josephine Laflere Long and Jake Laflere Long.

Please report whether the names of these persons appear upon any prior approved schedule; also why it was that the Commissioner to the Five Civilized Tribes enrolled them upon the schedule which was disapproved by the Department, showing whether the Commissioner enrolled them thereon, of his own motion, or under decision or instructions from the Department.

By comparison of the roll approved May 21, 1904, with the printed rolls of Choctaws by blood, the Department

finds that the numbers appearing thereon opposite the names of said persons were subsequently assigned to other citizens of the Choctaw Nation; thereby the series of roll numbers was kept perfect, but a material portion of the rolls was evidently sacrificed upon the supposition that it had become worthless. Inquiry arises in this connection as to whether there were other approved schedules which were subsequently disapproved and thrown aside. Accordingly, it is desired that you also cause a report to be prepared covering this feature of the matter, showing all persons embraced in similar cases, with recommendation as to what action should be taken as to them. This will necessitate a statement as to why their names were stricken or cancelled from the rolls, and whether such action was taken without prior notice.

There is still another matter concerning which the Department desires report to be made. It is observed that the words "No person enrolled at this number" are to be found not infrequently opposite consecutive numbers on the pages of the printed rolls; and you are requested to advise the Department whether such words were substituted for the names of individuals appearing on disapproved schedules, and if such is the case, whether such disapproved schedules were approved at any time by the Department; also whether favorable decisions were ever rendered by the Department as to such persons prior to their enrollment upon such disapproved schedules.

For the sake of expedition, a partial report should be rendered at once concerning the said Elizabeth Allen and the various members of the Brutchfield family named above. The other matters referred to herein can be disposed of by subsequent reports.

Very respectfully,

James H. Wilson,

Assistant Secretary.

Through the
Indian Office.

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17077-08

JFR

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON, D.C. Mar. 2, 09

Respectfully referred to the Commissioner
to the Five Civilized Tribes, for
appropriate action.

John Francis, Jr.
Acting Chief Land Division.

1 letter dated Mar 1, 09.

D 460-1909.

Muskogee, Oklahoma, April 20, 1909.

Subject:

Requesting report relative
to petition of Wm. B. Brown,
et al. for enrollment as
citizens of the Choctaw
Nation.

The Honorable,

The Secretary of the Interior,

Sir:

Receipt is hereby acknowledged of Indian Office letter of April 9, 1909 (Land 23090-1909) transmitting petition of Wm. B. Brown, et al. for enrollment as citizens of the Choctaw Nation. This office is also requested to report specially whether the names of any of the persons in this petition appeared upon any tribal rolls of the Choctaw Nation or upon any roll prepared by the Commission to the Five Civilized Tribes and approved by the Secretary of the Interior.

March 1, 1909, the Department also addressed a letter to this office requesting reports as to all persons whose names may have been upon disapproved schedules and at whose numbers in the printed rolls appears the notation "No person enrolled at this number."

Secretary 2

The case of William B. Brown is one of the cases referred to in Departmental letter of March 1, 1906 and the report is made to the Secretary of the Interior, through the Indian Office, with the view of complying with both requests.

I have the honorable report as follows, relative to the case of William B. Brown and the other members of his family who were included in the decision in the consolidated Chectaw case of William B. Brown, et al.:

It appears from the records of this office that on September 9, 1896, in the case entitled Nancy Cooper et al. versus the Chectaw Nation, 1896 Chectaw Citizenship Case Number 1418, original application was made to the Commission to the Five Civilized Tribes, under the provisions of the Act of Congress approved June 10, 1896 (29 Stat., 321), for admission to citizenship in the Chectaw Nation of the applicants, Nancy A. Brown (as Nancy Alice Brown), Bettie Mc Cartty (as Rebecca Elizabeth Brown), William B. Brown (as William Hiten Brown), Sarah Johnston (as Sarah Elizabeth Brown), Naky Brown (as Rebecca Catherine Brown), Mary Brown (as Mary Arrillie Brown), Mamie (or Minnie) Hudson (as Minnie Ann Brown), Alice Brown, George Brown (as George Montgomery Brown), Caswell H. Brown, Mamie Brown (as Mamie E. Brown), Willie Brown (as William C. Brown,) Polly A. Peck (as Polly Ann Peck, Florence

Secretary 3

Peck (as Winnie P. Peck), Oscar Peck (as Oscar E. Peck), Benjamin Peck (as Benjamin G. Peck), Andrew Peck, George G. Brown, Willie Emma Brown, James B. Nichols (as James Bruton Nichols), Della May Scott (as Mary Della May Nichols), Nancy V. Nichols (as Neenie Velma Nichols), John W. B. Nichols (as John William Bethuel Nichols), Orin H. Nichols (as Orrin Mayberry Nichols), James W. Nichols (as James Willis Nichols), Maggie M. Nichols (as Maggie May Nichols), Nettie Myrt1 Nichols, Lonie A. Nichols (as Lena Alta Nichols), as citizens by blood, and for the admission of William B. Brown, Nancy J. Brown (as Nancy Jane Brown), Amanda Brown, Andrew J. Peck (as A. J. Peck), Sarah Brown, Nancy G. Nichols (as Nancy Caroline Nichols), and Amanda M. Nichols (as Amanda Melvina Nichols), as citizens by intermarriage of said nation; and that on December 8, 1896, said Commission rendered its decision denying the applications for citizenship of the above named persons.

From this decision of the Commission an appeal was taken to the United States Court for the Southern District of Indian Territory which court on December 20, 1897, in the case entitled Nancy J. Cooper, et al. versus the Cheateau Nation, Case Number 96 on the Citizenship Docket, admitted Nancy A. Brown (as Nancy Alice Brown), Bettie McCarty (as Bettie Brown), Sarah Johnston (as Sarah Brown), Becky Brown,

Secretary 4

Mary Brown, Mamie (or Minnie) Hudson (as Mamie Brown), Alice Brown, George Brown, Essie Brown, Caswell W. Brown (as Caswell Marion Brown), Maudie Brown, Willie Brown, Polly A. Peck (as Polly Ann Peck,] Florence Peck, Oscar Peck, Benjamin Peck (as Benjamin Grant Peck), Andrew Peck, George G. Brown, Willie Emma Brown, James B. Nichols (as James Bruton Nichols,) Della May Grett (as Della May Nichols), Nancy V. Nichols (as Nancy Velmer Nichols), Orin M. Nichols (as Orin Mayberry Nichols), James W. Nichols (as James Willis Nichols), Maggie M. Nichols (as Maggie May Nichols), Nettie Myrtle Nichols (as Myrtle Nichols), and Lonie A. Nichols (as Lonie Alta Nichols) as citizens by blood of the Choctaw Nation, and William B. Brown (as William Bluford Brown), Andrew J. Peck (as Andrew Jackson Peck) and Nancy Nichols (as Nancy Caroline Nichols) as citizens by intermarriage of said Nation, and denied the applications for the admission of Nancy J. Brown (as Nancy Jane Brown), Sarah Brown and Amanda M. Nichols (as Amanda Melvina Nichols) as citizens by intermarriage of the Choctaw Nation.

The name of the applicant, Essie Brown, was interpolated in the judgment of said court, she not having been an applicant before the Commission to the Five Civilized Tribes in 1896.

March 18, 1898, this case again came before the United States Court upon a motion of the plaintiffs' attorneys to

Secretary 5

correct the judgment of said court rendered December 20, 1897, and the court thereupon ordered said judgment corrected so as to admit the applicants, Nancy J. Brown (as Nancy Jane Brown), Sarah Brown, Amanda M. Nichols (as Amanda Melvina Nichols) as citizens by intermarriage of the Choctaw Nation.

September 28, 1898, said court rendered a supplemental judgment admitting Amanda Brown as a citizen by intermarriage of the Choctaw Nation.

January 17, 1900, this cause again came before the court upon a motion of the defendant to strike out of the judgment theretofore rendered certain names improperly admitted to citizenship, and the court ordered that the names of Susie Brown, Andrew J. Peck (as Andrew Jackson Peck), Bettie McCarty (as Bettie Brown), and Becky Brown be stricken from said former judgment.

Subsequently, upon the representation of the plaintiffs' attorneys that certain persons who were original applicants were by oversight or mistake left out of the original judgment theretofore rendered, the court ordered that the applicants, Nancy J. Brown (as Nancy Jane Brown), Sarah Brown, Amanda Brown, Amanda M. Nichols and Rebecca M. Brown be admitted to citizenship in the Choctaw Nation.

December 17, 1902, the Choctaw and Chickasaw Citizenship

Secretary 6

Court, created under the provisions of the Act of Congress approved July 1, 1902 (32 Stat., 641), "set aside, annulled, vacated and held for naught" the aforesaid judgment of the United States Court for the Southern District of the Indian Territory.

The record in this case was subsequently certified to the Choctaw and Chickasaw Citizenship Court for a trial de novo, which court, November 29, 1904, in the case entitled William Neighton Brown, et al. versus the Choctaw and Chickasaw Nations, Number 73 on the Tishomingo Docket, ordered, adjudged and decreed that the petition of the plaintiffs be denied and that they be declared not citizens of the Choctaw Nation, and not entitled to enrollment as such citizens, and not entitled to any rights whatever flowing therefrom.

December 12, 1904, orders were entered of record by the Commission to the Five Civilized Tribes dismissing the applications for the enrollment of Mary E. McCarty, William Erman Johnston, Minnie Gertrude Brown, Henry Hiton Brown, Elbert Knightington Brown, Otis Dewey Peck, Virgie Peck, Louis Herman Nichols and Golda Ula Nichols as citizens by blood of the Choctaw Nation and March 18, 1906, an order was entered of record dismissing the application for the enrollment of Fannie C. Brown as a citizen by blood of said nation

Secretary ?

for the reason that the parents of these children had been denied by a decree of the Choctaw and Chickasaw Citizenship Court.

December 12, 1904, orders were entered of record by the Commission dismissing the applications for the enrollment of Eli W. Brown, Bessie Nichols and Osa Nichols as citizens by intermarriage of the Choctaw Nation for the reason that the persons through whom they claimed their rights had been denied by a decree of the Choctaw and Chickasaw Citizenship Court.

March 30, 1905, the Commission to the Five Civilized Tribes denied the application for the enrollment of Elsie Brown as a citizen by blood of the Choctaw Nation, and on

April 6, 1906 (I T D 3810-1905) the Department set aside this decision of the Commission and returned the record to this office for investigation upon its merits.

Under the regulations adopted by the Commissioner to the Five Civilized Tribes of January 2, 1906, there were filed on February 9, 1906, by Gues, Gues & Hleakmore, attorneys for the petitioners, Ardmore, Indian Territory, petitions praying that William B. Brown, Nancy A. Brown, Minnie Hudson, Sarah Johnston, Oscar Lee Johnston, William Erman Johnston, Rebecca Brown, Minnie Gertrude Brown, Henry

Secretary 8

Witen Brown, Rubie Dill Brown, Eli W. Brown, Mary A. Johnston, Roy Lester Johnston, Edna A. Johnston, Rebecca McCarty, William A. McCarty, Mary E. McCarty, William E. Brown, Nancy Jane Brown, George Brown, Alice Brown, Susie Brown, Cletus Brown, Clarence Brown, A. J. Peck, Polly Ann Peck, Winnie Peck, Oscar Sherman Peck, Benjamin Grant Peck, Andrew Peck, O. D. Peck, Virgie Peck, Prebble Peck, C. W. Brown, Amanda Brown, Maudy Brown, William Brown, Elbert K. Brown, Annie Jewel Brown, George G. Brown, Sarah Brown, Willie Emma Brown, Cassie Brown, Goldie Brown, J. E. Nichols, Nancy Nichols, Belma Nichols, John W. E. Nichols, Bessie Deaton Nichols, Louie Herman Nichols, Golda Rula Nichols, Silva Jewel Nichols, Della May Scott, Nema Scott, Orin M. Nichols, Amanda Nichols, Myrtle Nichols, Lonie Nichols, James W. Nichols, Osa Nichols, Cora Lee Nichols and Maggie Angel be enrolled as citizens of the Choctaw Nation.

April 16, 1906, the principal petitioners, their attorneys of record and the attorneys for the Choctaw and Chickasaw Nations, were advised that a hearing would be had in this matter at the office of the Commissioner to the Five Civilized Tribes, Muskogee, Indian Territory, Monday, May 14, 1906, at nine o'clock A. M. and on the same date, William E. Brown, father of Susie Brown, Grace, Grace & Blackmore, and Mary-

Secretary 9

field, McMurray & Cornish, were advised that on April 6, 1906, the Department had set aside the decision of the Commission to the Five Civilized Tribes of March 30, 1905, and returned the record with instructions that a full investigation be made of the rights of the said Susie Brown to enrollment as a citizen by blood of the Choctaw Nation, and that such testimony and evidence would be received at the date of the hearing on the petition.

On Motion of attorneys for applicants the hearing was continued until May 21, 1906, on which date proceedings were had in the matter of said petition in pursuance to the notices above mentioned.

At the hearing William E. Brown, Cassell M. Brown, James E. Nichols and Orin M. Nichols testified that in 1894, they, together with the other applicants herein who were living at that time, petitioned the Choctaw Council for admission as citizens of the Choctaw Nation; that no action having been taken by the Council as to their case they, in 1896, appeared before the Choctaw Census Commission and made application to be enrolled upon the 1896 Choctaw Census Roll; that same time in January, 1897, they received a certificate from the Secretary of the Choctaw Revisory Board, wherein it appeared that they had been enrolled upon the 1896 Choctaw Census Roll,

Secretary 10

It appears that the applicants, William B. Brown, William M. Brown, Nancy J. Brown, Caswell M. Brown, Amanda Brown, Polly Ann Peck, Andrew J. Peck, George G. Brown, Sarah Brown, Nancy A. Brown, Bettie McCarty, Sarah Johnston, Becky Brown, Mary Johnston, Mamie (or Minnie) Hudson, Alice Brown, George Brown, Susie Brown, Maudie Brown, Willie Brown, Florence Peck, Oscar Peck, Benjamin Peck, Andrew Peck, James B. Nichols, Nancy C. Nichols, Orin M. Nichols, Amanda M. Nichols, John W. B. Nichols, Della May Scott, Nancy V. Nichols, James W. Nichols, Maggie M. Nichols, Nettie Myrtle Nichols and Lonie A. Nichols are identified upon the 1896 Census Roll of the Choctaw Nation, Blue County.

August 13, 1906, the Commission to the Five Civilized Tribes rendered a decision, in accordance with the opinion of the Assistant Attorney General for the Department of the Interior of February 10, 1905 (I T D 10353-1904) and December 8, 1905 (I T D 3693-1905) in the case of Lula West, holding that the action of the Commission to the Five Civilized Tribes and the subsequent action of the United States Court for the Southern District of Indian Territory and the Choctaw and Chickasaw Citizenship Court upon the right of the applicants who applied to said Commission in 1896, with the exception of Andrew J. Peck, was without authority of law,

Secretary 11

and of no force and effect upon the status of said applicants as citizens of the Choctaw Nation.

He also rescinded the orders of the Commission to the Five Civilized Tribes of December 12, 1904, and March 16, 1905, dismissing the applications for the enrollment of Mary E. McCarty, William Erman Johnston, Minnie Gertrude Brown, Fannie C. Brown, Henry Witen Brown, Elbert Knightington Brown, Otis Dewey Peck, Virgie Peck, Louis Herman Nichols and Gelda Ula Nichols as citizens by blood of the Choctaw Nation and Eli W. Brown, Bessie Nichols and Osa Nichols as citizens by intermarriage of the Choctaw Nation.

The Commissioner to the Five Civilized Tribes further held, in accordance with the opinions of the Assistant Attorney General for the Department of the Interior of March 3, 1905 (I T D 167-1905) and March 10, 1906 (I T D 9969-1906) that Nancy A. Brown, Bettie McCarty, Mary Ethel McCarty,

William E. Brown, Sarah Johnston, Becky Brown, Mary Johnston, Mamie (or Minnie) Hudson, Alice Brown, George Brown, Essie Brown, William Erman Johnston, Minnie Gertrude Brown, Henry Witen Brown, Fannie C. Brown, Caswell M. Brown, Maudie Brown, Willie Brown, Elbert Knightington Brown, Pelly A. Peck, Florence Peck, Oscar Peck, Benjamin Peck, Andrew Peck, Otis Dewey

Secretary B

Peck, Virgie Peck, George G. Brown, Willie Emma Brown, James B. Nichols, Della May Scott, Nancy V. Nichols, John W. B. Nichols, Louie Herman Nichols, Golda Ula Nichols, Orin M. Nichols, James W. Nichols, Maggie M. Nichols, Nettie Myrtle Nichols and Lonie A. Nichols should be enrolled as citizens by blood and William B. Brown, Nancy Brown, Eli W. Brown, Amanda Brown, Sarah Brown, Nancy C. Nichols, Fessie Nichols, Amanda M. Nichols and Osa Nichols as citizens by intermarriage of the Choctaw Nation under the provisions of the Acts of Congress approved June 22, 1898 (30 Stat., 495) and July 1, 1900 (32 Stat., 641).

The applications for the enrollment of William A. McCarty, Ollie McCarty, Oscar Lee Johnston, Willie Clarence Brown, Roy Lester Johnston, Edna Arvel Johnston, Teddy Golden Johnston, Rubie Dill Brown, Annie Jewell Brown, Prebble Peck, Cassie Brown, Goldie Brown, Nema May Scott, Lita Leis Scott, Sylvie Jewel Nichols and Cora Lee Nichols were also granted under the provisions of the Act of Congress approved April 26, 1906 (34 Stat., 137).

The application for the enrollment of Andrew J. Peck as a citizen by intermarriage was denied and the application for the enrollment of Daphne Myrtle Nichols as a citizen by blood of the Choctaw Nation was dismissed.

Secretary's

August 14, 1906, the record in this case, together with the decision of August 13, 1906, was transmitted to the Department.

February 7, 1907, there were transmitted to the Secretary of the Interior schedules of citizens by blood and marriage of the Choctaw Nation containing the names of the persons who were favorably passed upon by the Commissioner to the Five Civilized Tribes August 13, 1906, in the Choctaw enrollment case of William B. Brown, et al., as follows:

Citizens by blood	Nos. 16121 to 16159, inclusive
Citizens by marriage	Nos. 1637 to 1645, inclusive
Minor citizens by blood	Nos. 857 to 872, inclusive

This case was analogous to the case of Mattie Shockley, et al. (Loula West case) in which this office had been directed to suspend action until the Attorney General had passed upon the questions involved in that case, but inasmuch as the time within which persons could be enrolled and their enrollment approved by the Secretary of the Interior under the provisions of the Act of Congress approved April 26, 1906, was becoming very short, the schedules above described were prepared by this office without waiting for the opinion of the Attorney General and were forwarded to the Department in order that, if the opinion of the Attorney General were favorable, the rights of these applicants might be protected without

Secretary 14

delay, and this office requested, in the event of such favorable opinion of the Attorney General, that these schedules be approved by the Secretary of the Interior.

February 26, 1907, referring to Departmental letter of February 23, 1907 (I T D 4564-1907) requesting this office to forward a list of those persons whose enrollment should be cancelled in view of the opinion of the Attorney General of February 19, 1907 in the Choctaw enrollment cases of Loula West and William C. Thompson, the Commissioner to the Five Civilized Tribes called the attention of the Department to the schedules above described which were forwarded February 7, 1907, and advised that this case was analogous to the case of Loula West. It was, therefore, recommended that the decision of August 13, 1906, be not approved by the Department and that the schedules transmitted with office letter of February 7, 1907, be disapproved by the Secretary of the Interior.

February 28, 1907 (Land 71868-1906, 2220, 14412-1907)
the Indian Office forwarded to the Department the record in the case of William B. Brown, et al. together with the schedules transmitted February 7, 1907, and recommended, in view of the opinion of the Attorney General of February 19, 1907, of that the decision of the Commissioner of August 13, 1906, in

Secretary 15

so far as it was favorable to the applicants, be reversed and the Schedules disapproved, which was done by the Department March 1, 1907 (I T D 5742-1907).

This office has no record of any favorable decision of the Department as to the persons included in this consolidated case.

No formal allotments were made to the persons included in this case but applications were made on their behalf for certain lands which were involved in Chickasaw contest cases. Subsequent to March 4, 1907, these contests were dismissed and on August 31, 1907, a motion to reinstate said contests was denied.

August 29, 1907, the Department advised this office that by letter of August 4, 1907, counsel for the claimants in the case of William B. Brown, et al. requested that the order of the Department of June 14, 1907, in the case of William C. Thompson and others, suspending action on claims to allotments of lands be made applicable to them.

September 30, 1907, this office reported that it did not appear that the claimants in the case of William B. Brown, et al. possessed the same status as the claimants in the case of William C. Thompson, et al. as their names had never been upon an approved roll, but that it appeared they occupied

Secretary 18

the same status as the persons included in the case of John H. Gamblin and the case of Angus A. Spring.

October 12, 1907 (I T 77803-1907) the Indian Office held that the action of the Commissioner to the Five Civilized Tribes in dismissing the contests on behalf of these claimants, and in refusing to reinstate the same, was proper and recommended that he be advised that all applications for allotments on behalf of these persons should be denied and this recommendation was approved by the Department October 14, 1907.

Following these instructions of the Department the lands in contest were awarded to the contestees, and patents therefor were recorded and delivered to them. It is believed, therefore, that these persons, in the event of a favorable decision relative to their enrollment, could not recover the land referred to, and if they are holding or claiming other land this office has no record of such claim.

If they are now in possession of other lands in the Choctaw and Chickasaw Nations, this office will, however, upon the receipt of descriptions thereof, make a record of their claim to the land, pending further action by the Department.

I have further to report that the record in this case is full and complete and it is believed the applicants could

Secretary 17

add nothing material thereto at this time, and that it would work an unjustifiable hardship upon them to notify them now to appear and give further testimony in this case and force upon them the expense of a hearing at this office.

I have not, therefore, forwarded the notices referred to in Departmental letter of March 15, 1909 and Indian Office letter of April 9, 1909, but will await specific instructions from the Department as to its wishes in the matter in accordance with my request of April 14, 1909, in the Mattie Shodley case.

If it is the desire of the Department that notices be forwarded in this case, however, this office will proceed to notify the applicants thereof immediately upon receipt of advice from the Department and will make supplemental report after their replies have been received.

The petition inclosed with Indian Office letter of April 9, 1909, is herewith returned.

Respectfully,

Commissioner.

Through the Commissioner
of Indian Affairs.

AL

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31789-1909
J. B. D

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS
Washington.

Jun 25, 1909

Enrollment case of
Wm. B. Brown et al.

The Commissioner

to the Five Civilized Tribes,
Muskogee, Oklahoma.

Sir:

Referring to your report of April 20, 1909, relative to the consolidated Choctaw enrollment case of William B. Brown et al., you are advised, that on June 15, 1909, the Department held that the case mentioned was not analogous to that of John E. Goldsby, and did not come within the principles announced by the Supreme Court of the United States in that case, (211 U. S. 249). The Department, therefore declined to take any action looking to the enrollment of any of the applicants in the consolidated case of William B. Brown et al.

A copy of approved Office letter of May 17, 1909, is inclosed for your further information.

You are requested to notify the parties in interest.

Very respectfully,

J. H. Dortch,
Acting Chief Clerk,

MMH-19
2538.

I-7359

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS.
Washington.

G.R.
J.W.
J.V. Jr.
W.R.L.

Land
31790-1909
J E D

Enrollment case of
Wm. B. Brown et al.

May 17, 1909

The Honorable,

The Secretary of the Interior.

Sir:

Referring to Department letter of March 1, 1909, there is transmitted herewith a report dated April 20, 1909, from the Commissioner to the Five Civilized Tribes, relative to the enrollment case of William B. Brown et al. The history of the claim is set out fully in the reports enclosed.

The record shows, among other things, that on August 13, 1904, the Commissioner to the Five Civilized Tribes rendered a decision that Nancy A. Brown, Bettie McCarty, Mary Ethel McCarty, William W. Brown, Sarah Johnston, Becky Brown, Mary Johnston, Mamie (or Minnie) Hudson, Alice Brown, George Brown, Susie Brown, William Ernest Johnston, Minnie Gertrude Brown, Henry Witen Brown, Fannie C. Brown, Caswell E. Brown, Mandie Brown, Willie Brown, Albert Knightington Brown, Polly A. Peck, Florence Peck, Oscar Peck, Benjamin Peck, Andrew Peck, Otis Dewey Peck, Virgie Peck, George G. Brown, Willie Anna Brown, James B. Nichols, Della May Scott, Nancy V. Nichols, John W.

N. Nichols, Louis Herman Nichols, Golda Ula Nichols, Orin E. Nichols, James W. Nichols, Maggie M. Nichols, Nettie Myrtle Nichols and Louis A. Nichols should be enrolled as citizens by blood and William B. Brown, Nancy Brown, Eli W. Brown, Amanda Brown, Sarah Brown, Nancy C. Nichols, Bessie Nichols, Amanda K. Nichols and Osa Nichols as citizens by intermarriage of the Choctaw Nation under the provisions of the Acts of Congress approved June 28, 1898 (30 Stat. L. 495) and July 1, 1902 (32 Stat., L. 641).

The applications for the enrollment of William A. McCarty, Ollie McCarty, Oscar Lee Johnston, Willie Clarence Brown, Ray Lester Johnston, Edna Arvel Johnston, Teddy Golden Johnston, Hubie Mill Brown, Annie Jewell Brown, Prebbie Peck, Cassie Brown, Goldie Brown, Rena May Scott, Lita Lois Scott, Sylvie Jewel Nichols and Cera Lee Nichols were also granted under the provisions of the Act of Congress approved April 26, 1906 (34 Stat. L. 137).

The application for the enrollment of Andrew J. Peck as a citizen by intermarriage was denied and the application for the enrollment of Daphne Myrtle Nichols as a citizen by blood of the Choctaw Nation was dismissed.

It appears that on August 14, 1906, the record in the case, together with the decision, was forwarded by the Com-

L-21790-3

missioner to the Five Civilized Tribes, and that on February 7, 1907, he transmitted to the Department schedules of citizens of the Choctaw Nation by blood and by marriage, containing the names of persons who were favorably passed upon by him in his decision of August 13, 1906, in this case. It appears also that on February 26, 1907, the Commissioner, referring to Department letter of February 23, 1907, invited the Department's attention to the above-mentioned schedules, and to the Choctaw enrollment case of William B. Brown, et al., and recommended, in view of the opinion of the Attorney General dated February 19, 1907, in the Louie West and other cases, that his decision of August 13, 1906, be not approved, and that the schedules referred to be disapproved.

On March 1, 1907, the Department reversed the decision of the Commissioner so far as it was favorable to the applicants, and disapproved the schedules containing their names.

The Commissioner to the Five Civilized Tribes reports further that his office has no record of any favorable decision of the Department as to the persons included in this case.

It appears also that their names have never been placed upon any roll or schedule of citizens of the Choctaw Nation prepared by the Commissioner to the Five Civilized Tribes and approved by the Department.

The Office concurs in the view of the Commissioner to the Five Civilized Tribes that as the record in the case is a complete one, the applicants could add nothing material thereto at this time, and to have them appear at his office to give further testimony would only make additional expenses for them and work a hardship without any benefits accruing therefrom.

On April 9, 1909, the Office requested the Commissioner to the Five Civilized Tribes to take no steps pending the preparation of his report concerning the enrollment case of William B. Brown, et al toward the issuance of a patent to any adverse party in interest to the lands occupied by the applicants in the above mentioned case. The Commissioner was also requested to instruct the United States Indian Agent, at Union Agency, to suspend action, if any was contemplated, toward dispossessing the applicants of the lands occupied by them until further advised by the Department.

The Commissioner reports that no formal allotments were made to the persons included in the above case, but that applications were made in their behalf for certain lands which were involved in Chickasaw contest cases. The contests in behalf of these claimants were dismissed by the Commissioner to the Five Civilized Tribes, and on October 12, 1907, the Office held that the action of the Commissioner was proper, and recommended that he be advised that all applications for

L-31790-3

allotments in behalf of these persons should be denied.

This recommendation was approved by the Department on October 14, 1907. It appears from the report of the Commissioner to the Five Civilized Tribes that the lands in contest were awarded to the contestees and patents therefor were recorded and delivered to them. Title having passed to the contestees, the Department is now without authority to place or permit the applicants in the William M. Brown case to remain in possession of the lands covered by the patents issued to the contestees, even in the event of the Department rendering a favorable decision relative to their enrollment.

The Commissioner reports that his office has no record of the applicants in the case mentioned holding or claiming possession of any other lands in the Choctaw or Chickasaw Nations, but says that if they are in occupancy of such other lands his office will, upon receipt of a description thereof, make a record of the claims pending further action by the Department.

The Office is of the opinion that the case of William M. Brown, et al., is not analogous to that of John E. Goldsby, and that it does not come within the principles announced by the Supreme Court of the United States in its decision of November 30, 1908, in that case (211 U. S. 249.)

L-21750-4

It is therefore recommended that the Department take no action looking to the enrollment of any of the applicants included in the consolidated case of William E. Brown, et al.

The record in the case, and other papers pertaining thereto, are transmitted herewith for your further information.

Very respectfully,

R. G. Valentine,

Acting Commissioner.

RMH 11

cc1

WCF June 15, 1909 JWH

Approved:

Frank Pierce,

First Assistant Secretary. WCF

Muskogee, Oklahoma, June 28, 1909.

Mr. William H. Brown,
Comanche, Oklahoma.

Sir:

You are hereby notified that on June 15, 1909, the Secretary of the Interior held that the Chestaw enrollment case of William H. Brown et al., with which your case was consolidated, was not analogous to that of John E. Goldsby (211 U. S. 249) and declined to take any action looking to the enrollment of the applicants therein under the opinion of the Supreme Court of the United States of November 30, 1908, in said Goldsby case.

Respectfully,

WHA-EB.

Commissioner.

Choctaw 6018
Sarah Johnston

Aug. 13, 1906 granted

Mar. 1, 1907 Decision of Commissioner
reversed by Dept. + schedule containing
names of applicants disapproved

Trans. from Choc. card #5060 See C-47

Duplicate record bound

6-29-09 Parties notified

6018

O.L.J.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of
William B. Brown, et al., as citizens of the Choctaw Nation, con-
solidating the applications of

William B. Brown, et al.	7-5096,
William N. Brown, et al.	7-5060,
Eli W. Brown, et al.	7-D-432,
Caswell M. Brown, et al.	7-5066
Andrew J. Peck, et al.	7-5062
George G. Brown, et al.	7-5098
James B. Nichols, et al.	7-5100,
John W. B. Nichols, et al.	7-5097,
Orin M. Nichols, et al.	7-5061,
Osa Nichols, et al.	7-D-509.

D E C I S I O N.

It appears from the census card records in this case
that on September 22, 1898, application was made to the Commission to
the Five Civilized Tribes for the enrollment of William B. Brown (six-
ty-two years of age), as a citizen by intermarriage of the Choctaw
Nation, and for the enrollment of his two children, Nancy A. Brown
(twenty-three years of age) and Bettie Brown, nee McCarty (nineteen
years of age), as citizens by blood of the said nation; on September
22, 1898,, for the enrollment of William N. Brown (thirty-nine years
of age), and his seven minor children, Sarah Brown, nee Johnston
(eighteen years of age), Becky Brown (sixteen years of age), Mary
Brown, nee Johnston (thirteen years of age), Mamie (or Milmie)

Brown, now Hudson (eleven years of age), Alice Brown (eight years of age), George Brown (five years of age) and Susie Brown (one year of age), as citizens by blood of the Choctaw Nation, and for the enrollment of Nancy Brown (thirty-six years of age) as a citizen by intermarriage of said nation; on September 8, 1899, for the enrollment of Eli W. Brown (twenty-eight years of age) as a citizen by intermarriage of the Choctaw Nation; on September 22, 1898, for the enrollment of Caswell M. Brown (thirty-four years of age), and his two minor children, Maudie (ten years of age) and Willie Brown (six years of age), as citizens by blood of the Choctaw Nation, and on October 18, 1898, for the enrollment of his wife, Amanda Brown (thirty-one years of age), as a citizen by intermarriage of said nation; on September 22, 1898, for the enrollment of Andrew J. Peck (thirty-two years of age) as a citizen by intermarriage of the Choctaw Nation, and for the enrollment of his wife, Felly A. Peck (thirty years of age), and his five minor children, Florence (nine years of age), Oscar (seven years of age), Benjamin G. (five years of age), Andrew (three years of age), and Otis Dewey Peck (two months of age), as citizens by blood of said nation; on September 22, 1898, for the enrollment of George G. Brown (twenty-six years of age), and his minor daughter, Willie Emma Brown (three years of age), as citizens by blood of the Choctaw Nation, and for the enrollment of his wife, Sarah Brown (twenty-one years of age), as a citizen by intermarriage of said nation; on September 22, 1898, for the enrollment of James B. Nichols (forty-eight years of age), and his two minor children, Della May Nichols, now Scott (fourteen years of age), and Henry V. Nichols (seven years of age), as citizens by blood of the Choctaw Nation, and for the enrollment of his wife, Nancy G. Nichols, (forty-two years of age), as a

citizens by intermarriage of said nation; on September 22, 1898, for the enrollment of John W. B. Nichols (twenty-four years of age) as a citizen by blood of the Choctaw Nation, and for the enrollment of his wife, Bessie Nichols (eighteen years of age), as a citizen by intermarriage of said nation; on September 22, 1898, for the enrollment of Orin M. Nichols (forty-four years of age), and his four minor children, James W. (eighteen years of age), Maggie M. (twelve years of age), Nettie Myrtle (eight years of age), and Janie A. Nichols (four years of age), as citizens by blood of the Choctaw Nation, and for the enrollment of his wife, Amanda M. Nichols (thirty-eight years of age), as a citizen by intermarriage of said nation; and on September 25, 1899, for the enrollment of Osa Nichols (seventeen years of age) as a citizen by intermarriage of the Choctaw nation.

Applications were subsequently made for the enrollment of the following minor applicants as citizens by blood of the Choctaw nation: On January 20, 1902, for the enrollment of Mary Ethel McCarty (born December 8, 1901); on May 31, 1906, for the enrollment of William A. McCarty (born April 21, 1904) and Ollie McCarty (born February 14, 1906); on October 13, 1900, for the enrollment of William Erman Johnston (born June 30, 1900); on October 19, 1900, for the enrollment of Minnie Gertrude Brown (born August 13, 1900); on May 16, 1901, for the enrollment of Fannie G. Brown (born February 11, 1901); on April 29, 1906, for the enrollment of Oscar Lee Johnston (born November 14, 1903); on April 29, 1906, for the enrollment of Willie Clarence Brown (born April 8, 1903); on July 12, 1902, for the enrollment

Henry Nites Brown, (born May 21, 1902); on April 29, 1903, for the enrollment of Roy Lester Johnston (born October 26, 1903); on May 21, 1904, for the enrollment of Edna Arvel Johnston (born March 21, 1906); on April 14, 1906, for the enrollment of Rubie Bill Brown (born February 12, 1904); in 1899, for the enrollment of Elbert Knightington Brown (born October 8, 1899); on April 7, 1906, for the enrollment of Annie Jewell Brown (born December 2, 1902); on December 10, 1901, for the enrollment of Birgie Peck (born October 11, 1901); on April 8, 1906, for the enrollment of Prebble Peck (born February 19, 1904); on May 21, 1906, for the enrollment of Cassie Brown (born May 30, 1900) and Goldie Brown (born September 5, 1904); on April 17, 1906, for the enrollment of Nema May Scott (born May 15, 1903) and Lita Lois Scott (born February 1, 1906); on September 1, 1900, for the enrollment of Louis Herman Nichols (born August 19, 1900); on December 27, 1901, for the enrollment of Golda Ula Nichols (born September 15, 1901); on April 1, 1905, for the enrollment of Sylvie Jewel Nichols (born August 28, 1903); on April 14, 1906, for the enrollment of Cera Lee Nichols (born November 8, 1902); on April 6, 1901, for the enrollment of Daphne Myrtle Nichols (born February 20, 1901); and on May 21, 1906, for the enrollment of Teddy Golden Johnston (born June 15, 1906).

It appears from the records of the Commission to the Five Civilized Tribes that on September 9, 1896, in the case entitled "Hansy Cooper, et al. vs. Cheateau Nation" (1896 Cheateau Citizenship Becket, Case No. 1418), original application was made to said Commission, under the provisions of the Act of Congress approved June 10, 1896 (29 Stats., 321), for admission to

citizenship in the Choctaw Nation of the applicants, Nancy A. Brown (as Nancy Alice Brown), Bettie McCarty (as Rebecca Elizabeth Brown), William W. Brown (as William Hiten Brown), Sarah Johnston (as Sarah Elisabeth Brown), Macky Brown (as Rebecca Catherine Brown), Mary Brown (as Mary Arrillie Brown), Mamie (or Minnie) Hudson (as Minnie Ann Brown), Alice Brown, George Brown (as George Montgomery Brown), Caswell M. Brown, Maudie Brown (as Mandy E. Brown), Willie Brown (as William G. Brown), Polly A. Peck (as Polly Ann Peck), Florence Peck (as Minnie F. Peck), Oscar Peck (as Oscar S. Peck), Benjamin Peck (as Benjamin G. Peck), Andrew Peck, George G. Brown, Willis Emma Brown, James B. Nichols (as James Bruton Nichols), Della May Scott (as Mary Della May Nichols), Nancy V. (Nannie Velma Nichols), John W. B. Nichols (as John William Bethuel Nichols), Orin M. Nichols (as Orrin Maybery Nichols), James W. Nichols (as James Willis Nichols), Maggie M. Nichols (as Maggie May Nichols), Nettie Myrtle Nichols, Lonie A. Nichols (as Lena Alta Nichols), as citizens by blood of said nation, and for the admission of William B. Brown, Nancy J. Brown (as Nancy Jane Brown), Amanda Brown, Andrew J. Peck (as A. J. Peck), Sarah Brown, Nancy C. Nichols (as Nancy Caroline Nichols), and Amanda M. Nichols (as Amanda Melvina Nichols), as citizens by intermarriage of said nation; and that on December 8, 1896, said Commission rendered its decision therein, denying the application of the above named applicants for enrollment as citizens of the Choctaw Nation.

From the decision of said Commission an appeal was taken to the United States Court for the Southern District of Indian Territory, which court on December 27, 1897, in the case

entitled "Nancy J. Cooper, et al. vs. Choctaw Nation" (Southern District Citizenship Case No. 96), admitted Nancy A. Brown (as Nancy Alice Brown), Bettie McGarty (as Bettie Brown), Sarah Johnson (as Sarah Brown), Becky Brown, Mary Brown, Mamie (or Winnie) Hudson (as Mamie Brown), Alice Brown, George Brown, Susie Brown, Caswell M. Brown (as Caswell Marion Brown), Maudie Brown, Willie Brown, Polly A. Peck (as Polly Ann Peck), Florence Peck, Oscar Peck, Benjamin Peck (as Benjamin Grant Peck), Andrew Peck, George G. Brown, Willie Emma Brown, James B. Nichols (as James Bruton Nichols), Della May Scott (as Dell May Nichols), Nancy E. Nichols (as Nancy Valmor Nichols), Orin M. Nichols (as Orin Mayberry Nichols), James W. Nichols (as James Willie Nichols), Maggie M. Nichols (as Maggie May Nichols), Mettie Myrtle Nichols (as Myrtle Nichols), and Lonie A. Nichols (as Lonie Alta Nichols), as citizens by blood of the Choctaw Nation, and William B. Brown (as William Bluford Brown), Andrew J. Peck (as Andrew Jackson Peck), and Nancy C. Nichols (as Nancy Caroline Nichols), as citizens by intermarriage of said nation, and denied the applications for the admission of Nancy J. Brown (as Nancy Jane Brown), Sarah Brown, and Amanda M. Nichols (as Amanda Melvina Nichols), as citizens by intermarriage of the Choctaw Nation. The name of the applicant, Susie Brown, was interpolated in the judgment of said court, she not having been an applicant before the Commission to the Five Civilized Tribes in 1896.

On March 12, 1896, said case again came before said court upon a motion of the plaintiff's attorneys to correct the judgment of said court rendered December 20, 1897, and the court, thereupon, ordered said judgment corrected so as to admit the

applicants, Nancy J. Brown (as Nancy Jane Brown), Sarah Brown, Amanda M. Nichols (as Amanda Melvina Nichols), as citizens by intermarriage of the Cheetaw Nation.

On September 23, 1896, said court rendered a supplemental judgment admitting Amanda Brown as a citizen by intermarriage of the Cheetaw nation.

On January 17, 1900, this cause again came before said court upon a motion of the defendant to strike out of the judgment theretofore rendered, certain names improperly admitted to citizenship, and said court being fully advised, ordered that the following names, Susie Brown, Andrew J. Peek as (Andrew Jackson Peek), Bettie McCarty (as Bettie Brown), and Becky Brown, be stricken from said former judgment.

Subsequently, upon the representation of the plaintiffs' attorneys that certain persons who were original applicants were by oversight or mistake left out of the original judgment theretofore rendered, the court ordered that the applicants, Nancy J. Brown (as Nancy Jane Brown), Sarah Brown, Amanda Brown, Amanda M. Nichols and Rebecca E. Brown be admitted to citizenship in the Cheetaw Nation.

It further appears from the records of said Commission that on December 17, 1902, the Cheetaw and Chickasaw Citizenship Court, created under the provisions of the Act of Congress approved July 1, 1902 (32 Stats., 641), "set aside, annulled, vacated and held for naught" the aforesaid judgment of the United States Court for the Southern District of Indian Territory.

Thereafter, the record in the above case was certified to the Cheetaw and Chickasaw Citizenship Court, for a trial de novo, which court, on November 23, 1904, in the case entitled, "William

Weighten Brown, et al. vs. Choctaw and Chickasaw Nations" (Choctaw Chickasaw Citizenship Court Case No. 73, Tishomingo Pocket), "ordered, adjudged and decreed that the petition of the plaintiffs, William Weighten Brown (or William Knighten Brown), Caswell Marion Brown, Polly Ann Peck (nee Brown), George E. Brown (or George G. Brown), Nancy Ellis Brown (or Nancy Alice Brown), Sarah Brown, Mary Brown, Mamie Brown (or Mamie Brown), Alice Brown, George Brown, Mondie Brown (or Mandie Brown), Willie Brown, Florence Peck, Oscar Peck, Benjamin Grant Peck, Andrew Peck, William Emma Brown (or Willie Emma Brown), James Burton Nichols, (or James Bruton Nichols), Oney Mayberry Nichols (or Orin Mayberry Nichols), John William Baffle Nichols, Della May Nichols, Nancy Velser Nichols, James Willis Nichols, Maggie May Nichols, Myrtle Nichols, Lonie Alta Nichols, William Buford Brown, Nancy Caroline Nichols, Rebecca E. Brown (or Becky Brown), Rebecca C. Brown (or Rebecca Brown), Amanda Melvina Nichols, Amanda Brown, Nancy J. Brown (or Nancy Jane Brown), Sarah Brown, be denied, and that they be declared not citizens of the Choctaw Nation, and not entitled to enrollment as such citizens, and not entitled to any rights whatever flowing therefrom."

On December 12, 1904, orders were entered of record by the Commission to the Five Civilized Tribes dismissing the applications for the enrollment of Mary E. McGarty, William Emma Johnston, Minnie Gertrude Brown, Henry Witen Brown, Elbert Knightington Brown, Otis Dewey Peck, Virgie Peck, Louis Herman Nichols and Golda Ula Nichols as citizens by blood of the Choctaw Nation, and on March 18, 1905, an order was entered of record dismissing the application for the enrollment of Fannie G. Brown as a citizen by

blood of said nation. All of said applicants were dismissed for the reason that their parents through whom they claim their rights to enrollment as citizens by blood of the Choctaw Nation, had been denied by a decree of the Choctaw and Chickasaw Citizenship Court.

On December 12, 1904, orders were entered of record by the Commission to the Five Civilized Tribes dismissing the applications for the enrollment of Eli W. Brown, Bessie Nichols and Osa Nichols as citizens by intermarriage of the Choctaw Nation, for the reason that the persons through whom they claim their rights had also been denied by a decree of the Choctaw and Chickasaw Citizenship Court.

On March 30, 1905, the Commission to the Five Civilized Tribes denied the application for the enrollment of Susie Brown as a citizen by blood of the Choctaw Nation, and on April 6, 1906 (I. T. D. 3810-1905), the Department set aside said decision of the Commission and returned the record to this office for a full investigation upon its merits.

Under the regulations adopted by the Commissioner to the Five Civilized Tribes of January 2, 1906, there was filed on February 6, 1906, by Grues, Grues and Bleakners, of Ardmore, Indian Territory, attorneys for the petitioners, petitions praying that William B. Brown, Nancy A. Brown, Minnie Hudson, Sarah Johnston, Oscar Lee Johnston, William Ernan Johnston, Rebecca Brown, Minnie Gertrude Brown, Henry Niten Brown, Rubie Dill Brown, Eli W. Brown, Mary A. Johnston, Ray Lester Johnston, Edna A. Johnston, Rebecca McCarty, William A. McCarty, Mary E. McCarty, William W. Brown, Nancy Jane Brown, George Brown, Alice Brown, Susie Brown, Gletus Brown, Clarence Brown, A. J. Peck, Felly Ann Peck, Minnie Peck, Oscar Sherman Peck, Benjamin Grant Peck, Andrew Peck, O. D. Peck,

Virgie Peck, Prebble Peck, C. M. Brown, Amanda Brown, Maudy Brown, William Brown, Elbert K. Brown, Annie Jewel Brown, George G. Brown, Sarah Brown, Willie Emma Brown, Cassie Brown, Goldie Brown, J. B. Nichols, Naney Nichols, Helma Nichols, John W. B. Nichols, Bessie Deaton Nichols, Louis Herman Nichols, Golda Kula Nichols, Silva^{Jewel} Nichols, Della May Scott, Nema Scott, Orin M. Nichols, Amanda Nichols, Myrtle Nichols, Lonie Nichols, James W. Nichols, Osa Nichols, Cora Lee Nichols and Maggie Angel be enrolled as citizens of the Choctaw Nation.

All of the above petitioners, with the exception of Ollie McCarty, Lita Lois Scott, Daphne Myrtle Nichols and Teddy Golden Johnston, are identical with the applicants for whom application has been made for enrollment as citizens of the Choctaw Nation.

On April 16, 1906, the principal petitioners, their attorneys, Gruse, Gruse & Bleakmore, of Ardmore, Indian Territory, and Messrs. Mansfield, McMurray & Gerniah, attorneys for the Choctaw and Chickasaw Nations, of South McAlester, Indian Territory, were advised that the Commissioner to the Five Civilized Tribes would at his office at Muskogee, Indian Territory, on Monday, May 14, 1906, at nine o'clock A. M., hear such testimony and receive such other evidence as might be submitted by the petitioners in support of their applications for enrollment as citizens of the Choctaw Nation, and by the attorneys for the Choctaw and Chickasaw Nations.

On April 16, 1906, William N. Brown, father of Susie Brown, Gruse, Gruse & Bleakmore, attorneys for said Susie Brown, and Mansfield, McMurray & Gerniah, attorneys for the Choctaw and Chickasaw Nations, were advised that on April 6, 1906, the Department set aside the decision rendered by the Commission on March 30, 1906, and returned the record in said case with in-

structions that a full investigation be made of the rights of said Susie Brown to enrollment as a citizen by blood of the Choctaw Nation; that the testimony of creditable witnesses be required showing her Choctaw blood, if any, the time and place of her birth, her various residences, her ancestors, the privileges, if any, enjoyed by her and her parents as citizens of the Choctaw Nation; and notified that the Commissioner to the Five Civilized Tribes would at his office at Muskogee, Indian Territory, on Monday, May 14, 1906, at nine o'clock A. M., hear such testimony and receive such other evidence as might be submitted in support of said application, investigation to be conducted along the lines indicated by Department letter above referred to.

On motion of Attorney for applicants, the hearing in the matter of the above application was continued on April 26, 1906, to May 21, 1906.

On May 21, 1906, proceedings were had in the matter of said applications in pursuance to the notices above mentioned.

It appears from the record herein that the applicants, William H. Brown, Caswell M. Brown, Felly Ann Peck, George G. Brown, Nancy A. Brown and Nettie McCarty, are the children of the principal applicant, William H. Brown, and Rebecca Geepor (now deceased), who is alleged to have been a Choctaw Indian, and the daughter of William Geepor, who was the son of Johnny Geepor, an alleged Choctaw Indian, who resided near the line between the states of Tennessee and Mississippi; that Sarah Johnston, Becky Brown, Mary Johnston, Mamie (or Minnie) Hudson, Alice Brown, George Brown, Susie Brown, Fannie G. Brown and Willie Clarence Brown, are the children of the applicants.

William N. Brown and Nancy J. Brown, (the latter an applicant for intermarried rights); that Willie Brown, Oscar Lee and Teddy Golden Johnston are the children of the applicant, Sarah Johnston, and J. A. Johnston, a non-citizen; that Minnie Gertrude, Henry Witen and Rubie Dill Brown are the children of the applicants, Becky Brown and Eli W. Brown, (the latter an applicant for intermarried rights); that Roy Lester and Edna Arvel Johnston are the children of the applicant, Mary Johnston, and Jacob J. Johnston, a non-citizen; that Maudie, Willie, Elbert Knightington, and Annie Jewell Brown are the children of the applicant, Caswell M. Brown and Amanda Brown (the latter an applicant for intermarried rights); that Florence, Oscar, Benjamin, Andrew, Otis Dewey Virgie and Prebble Peck are the children of the applicant, Pelly Ann Peck and Andrew J. Peck (the latter an applicant for intermarried rights); that Willie Egan, Cassie and Goldie Brown are the children of the applicants, George G. Brown and Sarah Brown (the latter an applicant for intermarried rights); that Mary Ethel, William A. and Ollie McCarty are the children of the applicant, Nettie McCarty, and Oliver McCarty, a non-citizen; that James B. Nichols and Orin M. Nichols are the children of Wilson Nichols (now deceased), a non-citizen, and Delitha Cooper (now deceased), who is alleged to have been a Cheetaw Indian and the daughter of John Cooper, above referred to; that John W. B. Nichols, Della May Scott and Nancy W. Nichols are the children of the applicant, James B. Nichols and Nancy C. Nichols (the latter an applicant for intermarried rights); that Louis Herman, Golda Ula and Sylvie Jewel Nichols are the children of the applicant, John W. B. Nichols and Bessie Nichols (the latter an applicant for

intermarried rights); that Wema May and Lita Lois Scott are the children of the applicant, Della May Scott, and Burris Scott, a non-citizen; that James W., Maggie M., Nettie Myrtle and Louis A. Nichols are the children of the applicant, Orin M. Nichols and Amanda M. Nichols (the latter an applicant for intermarried rights); and that the applicant, Cora Lee and Daphne Myrtle Nichols, are the children of the applicants, James W. Nichols and Osa Nichols (the latter an applicant for intermarried rights).

The applicant, William B. Brown, claims his right to citizenship in the Choctaw Nation by the virtue of his marriage on February 10, 1858, under the laws of the state of Arkansas, to Becky Cooper (now deceased); that Nancy Brown claims her right to enrollment as a citizen by intermarriage by virtue of her marriage to the applicant, William B. Brown, on September 21, 1879; that Eli W. Brown claims his right to enrollment as a citizen by intermarriage by virtue of his marriage on August 21, 1889, under the laws, customs and usages of the Chickasaw Nation to the applicant, Becky Brown, both of said applicants being at said time residents in good faith of the Chickasaw Nation; that Amanda Brown claims her right to enrollment as a citizen by intermarriage by virtue of her marriage on December 2, 1886, to the applicant, Caswell M. Brown; that Andrew J. Peck claims his right to enrollment as a citizen by intermarriage by virtue of his marriage on December 15, 1887, under the laws of the state of Arkansas to the applicant, Felly A. Peck; that Sarah Brown claims her right to enrollment as a citizen by intermarriage by virtue of her marriage to George G. Brown on June 9, 1895; that the applicant, Nancy G. Nichols, claims her right to enrollment as a citizen by intermarriage by virtue of her marriage to the applicant, James B.

Nichols, on March 9, 1873; that the applicant, Bessie Nichols, claims her right to enrollment as a citizen by intermarriage by virtue of her marriage on September 11, 1898, to the applicant, John W. B. Nichols; that Amanda M. Nichols claims her right to enrollment as a citizen by intermarriage by virtue of her marriage on October 20, 1878, to the applicant, Orin M. Nichols; and that Osa Nichols claims her right to enrollment as a citizen by intermarriage by virtue of her marriage on April 27, 1899, to the applicant, James W. Nichols.

It does not appear from the record herein or from the records in the possession of this office that the applicant, Andrew J. Peck, has ever been admitted to Choctaw citizenship by a duly constituted court or committee of the Choctaw Nation, nor has said applicant ever been married to Fally Ann Peck, through whom he claims his intermarried rights, by virtue of a license issued by the tribal authorities of either the Choctaw or Chickasaw Nation.

At the hearing before the Commissioner to the Five Civilized Tribes on May 21, 1906, William H. Brown, Caswell M. Brown, James B. Nichols and Orin M. Nichols testified that in 1894, they, together with the other applicants herein who were living at said time, petitioned the Choctaw Council for admission as citizens of the Choctaw Nation; that no action having been taken thereon, they, in 1896, appeared before the Choctaw Census Commission and made application to be enrolled upon the 1896 Choctaw Census Roll; and that some time in January, 1897, they received a certificate from the Secretary of the Choctaw Advisory Board, wherein it appeared that they had been enrolled upon the 1896 Choctaw Census Roll. Said applicants further testified

that prior to 1896 they had been permitted to issue permits for their tenants, held lands, and were not subject to any tribal tax which was due from all non-citizens who were engaged in the mercantile business.

On June 4, 1906, John H. Gamblin testified that he was acquainted with the applicants herein, and that in October, 1894, he having business before the Choctaw Council, presented on behalf of the applicants herein who were living at that time, a petition praying that they be admitted as citizens of the Choctaw Nation, and that he does not know what action, if any, was ever taken thereon.

Upon an examination of the tribal rolls of the Choctaw Nation in the possession of this office, it appears that the applicants, William B. Brown, William E. Brown, Nancy J. Brown, Caswell M. Brown, Amanda Brown, Polly Ann Peck, Andrew J. Peck, George C. Brown, Sarah Brown, Nancy A. Brown, Bettie McCarty, Sarah Johnston, Becky Brown, Mary Johnston, Mamie (or Minnie) Hudson, Alice Brown, George Brown, Essie Brown, Mandie Brown, Willie Brown, Florence Peck, Oscar Peck, Benjamin Peck, Andrew Peck, James B. Nichols, Nancy C. Nichols, Olin M. Nichols, Amanda M. Nichols, John W. B. Nichols, Della May Scott, Nancy V. Nichols, James H. Nichols, Maggie M. Nichols, Nettie Myrtle Nichols and Louis A. Nichols, are identified upon the 1896 Choctaw Census Roll opposite numbers 1688, 1691, 1692, 1701, 1702, 10518, 10517, 1705, 1706, 1689, 1690, 1693, 1694, 1695, 1696, 1697, 1698, 1699, 1703, 1704, 10519, 10520, 10521, 10522, 9803, 9806, 9812, 9813, 9809, 9810, 9811, 9814, 9815, 9816 and 9817, respectively.

It further appears from the record herein that all of

the applicants, that were living on June 29, 1898, were residents in good faith of the Indian Territory on said date.

The evidence in this case further shows that the applicant, Daphne Myrtle Nichols, died on June 27th 1901.

I am of the opinion that in accordance with the opinions of the Assistant Attorney General for the Department of the Interior of February 10, 1903 (I. T. D. 10353-1904) and December 8, 1905 (I. T. D. 3493-1906), in the case of Lula West, the action of the Commission to the Five Civilized Tribes, and the subsequent action of the United States Court for the Southern District of Indian Territory, and the Choctaw and Chickasaw Citizenship Court, upon the right of the applicants who applied to the Commission to the Five Civilized Tribes in 1896, with the exception of Andrew J. Peck, was without authority of law, and of no force and effect upon the status of said applicants as citizens of the Choctaw Nation.

I am further of the opinion that the orders of the Commission to the Five Civilized Tribes of December 12, 1904 and March 18, 1906, dismissing the applications for the enrollment of Mary E. McCarty, William Brown Johnston, Minnie Gertrude Brown, Fannie G. Brown, Henry Witen Brown, Elbert Knightington Brown, Otis Dewey Peck, Virgie Peck, Louis Herman Nichols and Golda Wla Nichols as citizens by blood of the Choctaw Nation, and Eli W. Brown, Bessie Nichols and Gus Nichols as citizens by intermarriage of the Choctaw Nation, should be rescinded.

I am further of the opinion that in accordance with the opinions of the Assistant Attorney General for the Department of the Interior of March 2, 1906 (I. T. D. 127-1906) and March 12,

1906 (I. T. D. 9949-1905), Nancy A. Brown, Bettie McCarty, Mary Ethel McCarty, William W. Brown, Sarah Johnston, Becky Brown, Mary Johnston, Mamie (or Minnie) Hudson, Alice Brown, George Brown, Susie Brown, William Hyman Johnston, Minnie Gertrude Brown, Henry Niten Brown, Fannie G. Brown, Cassell M. Brown, Maudie Brown, Willie Brown, Elbert Knightington Brown, Felly A. Peck, Florence Peck, Oscar Peck, Benjamin Peck, Andrew Peck, Otis Dewey Peck, Virgie Peck, George G. Brown, Willie Emma Brown, James B. Nichols, Della May Scott, Nancy V. Nichols, John W. B. Nichols, Louis Herman Nichols, Golda Ula Nichols, Orin M. Nichols, James W. Nichols, Maggie M. Nichols, Nettie Myrtle Nichols and Louis A. Nichols should be enrolled as citizens by blood of the Chectaw Nation, under the provisions of the Acts of Congress approved June 28, 1898 (30 Stats., 495) and July 1, 1902 (32 Stats., 641), and it is so ordered.

I am further of the opinion that William B. Brown, Nancy Brown, Eli W. Brown, Amanda Brown, Sarah Brown, Nancy C. Nichols, Bessie Nichols, Amanda M. Nichols and Osa Nichols should be enrolled as citizens by intermarriage of the Chectaw Nation, under the provisions of the Acts of Congress approved June 28, 1898 (30 Stats., 495) and July 1, 1902 (32 Stats., 641), and it is so ordered.

I am further of the opinion that the application made for the enrollment of Andrew J. Peck as a citizen by intermarriage of the Chectaw Nation should be denied, under the provisions of the Act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered.

I am further of the opinion that William A. McCarty, Ollie McCarty, Oscar Lee Johnston, Willie Clarence Brown, Roy

Lester Johnston, Edna Arvel Johnston, Teddy Golden Johnston, Rubie Bill Brown, Annie Jewell Brown, Freddie Peck, Charlie Brown, Goldie Brown, Emma May Scott, Lita Leola Scott, Myrtle Jewel Nichols and Gera Lee Nichols should be enrolled as citizens by blood of the Cheatar Nation, under the provisions of the Act of Congress approved April 28, 1906 (Public No. 129), and it is so ordered.

I am further of the opinion that the application made for the enrollment of Daphne Myrtle Nichols as a citizen by blood of the Cheatar Nation should be dismissed, and it is so ordered.

CORRAL SHOWER.

Muskogee, Indian Territory,

Aug. 13, 1906.

Muskogee, Indian Territory, August 13, 1906.

William H. Brown,

Comanche, Indian Territory.

Dear Sir:

Inclosed herewith you will find a copy of the decision of the Commissioner to the Five Civilized Tribes, rendered August 13, 1906, granting the application for the enrollment of yourself and your children, Alice Brown, George Brown, Susie Brown, Fannie C. Brown, and Willie Clarence Brown as citizens by blood of the Choctaw Nation, and your wife, Nancy Brown, as a citizen by inter-marriage of said Nation.

The decision, with the record of proceedings in the case, is this day transmitted to the Secretary of the Interior for review. The final decision of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

SIGNED

Commissioner.

Registered.

HAN 8/13

Muskogee, Indian Territory, August 13, 1906.

Cruce, Cruce & Bleakmore,
Attorneys at Law,
Ardmore, Indian Territory,

Gentlemen:

Inclosed herewith you will find a copy of the decision of the Commissioner to the Five Civilized Tribes, rendered August 13, 1906, granting the applications for the enrollment of Nancy A. Brown, Nettie McCarty, Mary Ethel McCarty, William N. Brown, Sarah Johnston, Rocky Brown, Mary Johnston, Mamie (or Minnie) Hudson, Alice Brown, George Brown, Susie Brown, William Brian Johnston, Minnie Gertrude Brown, Henry Milton Brown, Fannie C. Brown, Cassell M. Brown, Maude Brown, Willie Brown, Albert Knightington Brown, Pelly A. Peck, Florence Peck, Oscar Peck, Benjamin Peck, Andrew Peck, Otis Dewey Peck, Virgie Peck, George O. Peck, Willie Emma Brown, James B. Nichols, Della May Scott, Nancy V. Nichols, John W. B. Nichols, Louis Herman Nichols, Golda Ula Nichols, Orin M. Nichols, James W. Nichols, Maggie V. Nichols, Nettie Myrtle Nichols, Lonie A. Nichols, William A. McCarty, Ollie McCarty, Oscar Lee Johnston, Willie Clarence Brown, Roy Lester Johnston, Edna Arvel Johnston, Teddy Golden Johnston, Rubie Dill Brown, Annie Jewell Brown, Prebble Peck,

C. C. & B. #2

Cassie Brown, Goldie Brown, Wena May Scott, Lita Lois Scott, Sylvie Jewel Nichols and Gera Lee Nichols, as citizens by blood, and for the enrollment of William W. Brown, Nancy Brown, Eli W. Brown, Amanda Brown, Sarah Brown, Nancy C. Nichols, Bessie Nichols, Amanda M. Nichols and Osa Nichols, as citizens by intermarriage, of the Cheetaw Nation; denying the application for the enrollment of Andrew J. Peck as a citizen by intermarriage of the Cheetaw Nation, and dismissing the application for the enrollment of Daphne Myrtle Nichols as a citizen by blood of said nation.

The decision, with the record of proceedings in the case, is this day transmitted to the Secretary of the Interior for review. The final decision of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

Registered.

Commissioner.

Incl. NAM 18/11

Muskogee, Indian Territory, August 13, 1906.

Mansfield, McMurray & Cornish,

Attorneys for Choctaw and Chickasaw Nations,

South McAlester, Indian Territory,

Gentlemen:

Inclosed herewith you will find a copy of the decision of the Commissioner to the Five Civilized Tribes, rendered August 13, 1906, granting the application for the enrollment of Nancy A. Brown, Bettie McCarty, Mary Ethel McCarty, William N. Brown, Sarah Johnston, Becky Brown, Mary Johnston, Mamie (or Minnie) Hudson, Alice Brown, George Brown, Susie Brown, William Erman Johnston, Minnie Gertrude Brown, Henry Hiten Brown, Fannie C. Brown, Caswell M. Brown, Maudie Brown, Willie Brown, Elbert Knightington Brown, Polly A. Peck, Florence Peck, Oscar Peck, Benjamin Peck, Andrew Peck, Otis Dewey Peck, Virgie Peck, George G. Brown, Willie Emma Brown, James B. Nichols, Della May Scott, Nancy V. Nichols, John W. B. Nichols, Louie Herman Nichols, Golda Ula Nichols, Orin M. Nichols, James W. Nichols, Maggie M. Nichols, Mettie Myrtle Nichols, Lonie A. Nichols, William A. McCarty, Ollie McCarty, Oscar Lee Johnston, Willie Clarence Brown, Roy Lester Johnston, Edna Arvel Johnston, Teddy Golden Johnston, Rubie Dill Brown, Annie Jewell Brown, Prebble Peck,

Cassie Brown, Goldie Brown, Hema May Scott, Lita Lois Scott, Sylvie Jewel Nichols and Cora Lee Nichols, as citizens by blood, and for the enrollment of William B. Brown, Nancy Brown, Eli W. Brown, Amanda Brown, Sarah Brown, Nancy C. Nichols, Bessie Nichols, Amanda M. Nichols and Osa Nichols, as citizens by intermarriage, of the Choctaw Nation; denying the application for the enrollment of Andrew J. Peck, as a citizen by intermarriage, and dismissing the application for the enrollment of Daphne Myrtle Nichols as a citizen by blood of the Choctaw Nation.

The decision, with the record of proceedings in the case, is this day transmitted to the Secretary of the Interior for review. The final decision of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

Registered.

Commissioner.

Incl. HAH 17/11

Muskogee, Indian Territory, August 13, 1906.

Cruce, Cruce & Bleakmore,
Attorneys at Law,
Ardmore, Indian Territory.

Gentlemen:

Receipt is hereby acknowledged of your letter of August 7, 1906, transmitting a brief to be filed with the record in the matter of the application of William B. Brown, et al, for enrollment as members of the Choctaw Tribe of Indians.

The brief has been filed as requested.

Respectfully,

Commissioner.

JBM

Muskogee, Indian Territory, October 17, 1900.

N. B. Locket,

Attorney at Law,

Comanche, Indian Territory.

Dear Sir:

The Commission is in receipt of your letter of the 8th instant relative to the application for enrollment as a citizen of the Choctaw Nation of William Erman Johnston.

You enclose in your letter the original marriage certificate of the father and mother of the applicant and state that the mother was admitted to citizenship by a decree of the United States Court at Ardmore, Indian Territory, on December 20th, 1897, in the case of Nancy J. Cooper et. al versus the Choctaw Nation, in court case No. 26.

Your information has enabled the Commission to identify the mother of the child for whom this application is made as being listed for enrollment as a citizen of the Choctaw Nation under the name of Sarah Brown, 18 years of age, the daughter of William N. and Nancy J. Brown. The marriage license offered by you has been accepted and filed with the records of this Commission as authority for the changing of the name from Sarah Brown to Sarah Johnston and the child, William Erman Johnston, has been listed for enrollment as a citizen of the Choctaw Nation.

Yours truly,

7-5060.

Muskogee, Indian Territory, May 3, 1905.

John A. Johnston,

Comanche, Indian Territory.

Dear Sir:

Receipt is hereby acknowledged of the affidavits of Sarah E. Johnston, nee Brown and H. A. Conger to the birth of Oscar Lee Johnston, son of John A. and Sarah E. Johnston, November 14, 1902.

It appears that you are a noncitizen and that the Choctaw and Chickasaw Citizenship Court on November 29, 1904, denied the citizenship in the Choctaw Nation of your wife, Sarah E. Johnston, formerly Brown, and under the provisions of the Act of Congress approved March 3, 1905, the Commission is authorized for a period of sixty days from that date to receive applications for the enrollment of children born to enrolled citizens by blood of the Choctaw and Chickasaw Nations prior to March 4, 1905.

You will therefore see that the Commission is without authority to enroll your child.

Respectfully,

Chairman.

7-5060

Muskogee, Indian Territory, June 29, 1906.

J. A. Johnston,
Comanche, Indian Territory.

Dear Sir:-

Receipt is hereby acknowledged of the affidavits of Sarah E. Johnston and H. A. Conger to the birth of Oscar Lee Johnston, child of J. A. and Sarah E. Johnston, November 14, 1902.

Receipt is also acknowledged of the affidavits of Sarah E. Johnston and J.H. Linzy to the birth of William Erman Johnston, child of Sarah E. and J. A. Johnston, June 30, 1900.

Respectfully,

Commissioner.

7-5060

COPY

Muskogee, Indian Territory, August 13, 1906.

Sarah Johnston,

Comanche, Indian Territory.

Dear Madam:

Inclosed herewith you will find a copy of the decision of the Commissioner to the Five Civilized Tribes, rendered August 13, 1906, granting the application for the enrollment of Sarah Johnston, Oscar Lee Johnston, Teddy Golden Johnston and William Erman Johnston as citizens by blood of the Choctaw Nation.

The decision, with the record of proceedings in the case, is this day transmitted to the Secretary of the Interior for review. The final decision of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

SIGNED

Tamm

Commissioner.

Registered.

EAH 1/13

SPECIAL.

J.P.

DEPARTMENT OF THE INTERIOR,

WASHINGTON.

THE
January 16, 1907.

D.C. 2920-1907.
I.T.D 25868-1906.
818-1907.

LRS

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

Referring to departmental letters of January 9 and 14, 1907, in the matter of the applications for the enrolment of Mattie Shockley et al., as citizens by blood of the Choctaw Nation, you are advised that by direction of the President the case will be submitted to the Attorney-General for his opinion. You will suspend action relative to these claimants until further advised.

Respectfully,

Thos Ryan

First Assistant Secretary.

Choctaw 6019

Eli W. Brown

Aug. 13, 1906 granted 3-1, 07 decision
of Commissioner reversed by
Sept. 8 Schedules containing names
of applicants disapproved

Trans. from Choc Card D 452

See Pet. #C-34

June 29, 1909 Parties notified

6019

O.L.J.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of
William B. Brown, et al., as citizens of the Choctaw Nation, con-
solidating the applications of

William B. Brown, et al.	7-5096,
William N. Brown, et al.	7-5060,
Eli W. Brown, et al.	7-D-432,
Caswell M. Brown, et al.	7-5066
Andrew J. Peek, et al.	7-5062
George G. Brown, et al.	7-5098
James B. Nichols, et al.	7-5100,
John W. B. Nichols, et al.	7-5097,
Orin M. Nichols, et al.	7-5061,
Osa Nichols, et al.	7-D-509.

D E C I S I O N.

It appears from the census card records in this case that on September 22, 1898, application was made to the Commission to the Five Civilized Tribes for the enrollment of William B. Brown (sixty-two years of age), as a citizen by intermarriage of the Choctaw Nation, and for the enrollment of his two children, Nancy A. Brown (twenty-three years of age) and Bettie Brown, nee McCarty (nineteen years of age), as citizens by blood of the said nation; on September 22, 1898,, for the enrollment of William N. Brown (thirty-nine years of age), and his seven minor children, Sarah Brown, nee Johnston (eighteen years of age), Becky Brown (sixteen years of age), Mary Brown, nee Johnston (thirteen years of age), Mamie (or Minnie)

Brown, now Hudson (eleven years of age), Alice Brown (eight years of age), George Brown (five years of age) and Susie Brown (one year of age), as citizens by blood of the Choctaw Nation; and for the enrollment of Nancy Brown (thirty-six years of age) as a citizen by intermarriage of said nation; on September 8, 1899, for the enrollment of Eli W. Brown (twenty-eight years of age) as a citizen by intermarriage of the Choctaw Nation; on September 22, 1898, for the enrollment of Caswell M. Brown (thirty-four years of age), and his two minor children, Maudie (ten years of age) and Willie Brown (six years of age), as citizens by blood of the Choctaw Nation, and on October 18, 1898, for the enrollment of his wife, Amanda Brown (thirty-one years of age), as a citizen by intermarriage of said nation; on September 22, 1898, for the enrollment of Andrew J. Peck (thirty-two years of age) as a citizen by intermarriage of the Choctaw Nation, and for the enrollment of his wife, Pelly A. Peck (thirty years of age), and his five minor children, Florence (nine years of age), Oscar (seven years of age), Benjamin G. (five years of age), Andrew (three years of age), and Otis Dewey Peck (two months of age), as citizens by blood of said nation; on September 22, 1898, for the enrollment of George O. Brown (twenty-six years of age), and his minor daughter, Willie Emma Brown (three years of age), as citizens by blood of the Choctaw Nation, and for the enrollment of his wife, Sarah Brown (twenty-one years of age), as a citizen by intermarriage of said nation; on September 22, 1898, for the enrollment of James B. Nichols (forty-eight years of age), and his two minor children, Della May Nichols, now Scott (fourteen years of age), and Nancy V. Nichols (seven years of age), as citizens by blood of the Choctaw Nation, and for the enrollment of his wife, Nancy G. Nichols, (forty-two years of age), as a

citizens by intermarriage of said nation; on September 22, 1898, for the enrollment of John W. B. Nichols (twenty-four years of age) as a citizen by blood of the Choctaw Nation, and for the enrollment of his wife, Bessie Nichols (eighteen years of age), as a citizen by intermarriage of said nation; on September 22, 1898, for the enrollment of Orin M. Nichols (forty-four years of age), and his four minor children, James W. (eighteen years of age), Maggie M. (twelve years of age), Nettie Myrtle (eight years of age), and Lonie A. Nichols (four years of age), as citizens by blood of the Choctaw Nation, and for the enrollment of his wife, Amanda M. Nichols (thirty-eight years of age), as a citizen by intermarriage of said nation; and on September 25, 1899, for the enrollment of Osa Nichols (seventeen years of age) as a citizen by intermarriage of the Choctaw nation.

Applications were subsequently made for the enrollment of the following minor applicants as citizens by blood of the Choctaw Nation: On January 20, 1902, for the enrollment of Mary Ethel McCarty (born December 8, 1901); on May 31, 1906, for the enrollment of William A. McCarty (born April 21, 1904) and Ollie McCarty (born February 14, 1906); on October 13, 1900, for the enrollment of William Herman Johnston (born June 30, 1900); on October 19, 1900, for the enrollment of Minnie Gertrude Brown (born August 13, 1900); on May 16, 1901, for the enrollment of Fannie G. Brown (born February 11, 1901); on April 29, 1906, for the enrollment of Oscar Lee Johnston (born November 14, 1902); on April 29, 1906, for the enrollment of Willie Clarence Brown (born April 8, 1903); on July 12, 1903, for the enrollment

Henry Niten Brown, (born May 21, 1902); on April 29, 1906, for the enrollment of Ray Lester Johnston (born October 28, 1903); on May 21, 1906, for the enrollment of Edna Arvel Johnston (born March 21, 1905); on April 14, 1906, for the enrollment of Rubie Bill Brown (born February 12, 1904); in 1899, for the enrollment of Elbert Knightington Brown (born October 8, 1899); on April 7, 1906, for the enrollment of Annie Jewell Brown (born December 2, 1902); on December 10, 1901, for the enrollment of Virgie Peck (born October 11, 1901); on April 8, 1906, for the enrollment of Prebble Peck (born February 19, 1904); on May 21, 1906, for the enrollment of Cassie Brown (born May 30, 1900) and Goldie Brown (born September 5, 1904); on April 17, 1906, for the enrollment of Nema May Scott (born May 16, 1903) and Lita Lois Scott (born February 1, 1906); on September 1, 1900, for the enrollment of Louis Herman Nichols (born August 19, 1900); on December 27, 1901, for the enrollment of Golda Ula Nichols (born September 15, 1901); on April 1, 1906, for the enrollment of Sylvie Jewel Nichols (born August 28, 1903); on April 14, 1906, for the enrollment of Cera Lee Nichols (born November 6, 1902); on April 6, 1901, for the enrollment of Daphne Myrtle Nichols (born February 20, 1901); and on May 21, 1906, for the enrollment of Teddy Golden Johnston (born June 15, 1906).

It appears from the records of the Commission to the Five Civilized Tribes that on September 9, 1896, in the case entitled "Nancy Cooper, et al. vs. Choctaw Nation" (1896 Choctaw Citizenship Becket, Case No. 1418), original application was made to said Commission, under the provisions of the Act of Congress approved June 10, 1896 (29 Stat., 321), for admission to

citizenship in the Choctaw Nation of the applicants, Nancy A. Brown (as Nancy Alice Brown), Bettie McCarty (as Rebecca Elizabeth Brown), William W. Brown (as William Hiten Brown), Sarah Johnston (as Sarah Elizabeth Brown), Pecky Brown (as Rebecca Catherine Brown), Mary Brown (as Mary Arrillie Brown), Mamie (or Minnie) Hudson (as Minnie Ann Brown), Alice Brown, George Brown (as George Montgomery Brown), Caswell M. Brown, Maudie Brown (as Mandy E. Brown), Willie Brown (as William G. Brown), Pelly A. Peck (as Pelly Ann Peck), Florence Peck (as Minnie F. Peck), Oscar Peck (as Oscar S. Peck), Benjamin Peck (as Benjamin G. Peck), Andrew Peck, George G. Brown, Willis Emma Brown, James B. Nichols (as James Bruton Nichols), Della May Scott (as Mary Della May Nichols), Nancy V. (Nannie Velma Nichols), John W. B. Nichols (as John William Bethuel Nichols), Orin M. Nichols (as Orrin Maybery Nichols), James W. Nichols (as James Willis Nichols), Maggie M. Nichols (as Maggie May Nichols), Nettie Myrtle Nichols, Lonie A. Nichols (as Lena Alta Nichols), as citizens by blood of said nation, and for the admission of William B. Brown, Nancy J. Brown (as Nancy Jane Brown), Amanda Brown, Andrew J. Peck (as A. J. Peck), Sarah Brown, Nancy C. Nichols (as Nancy Caroline Nichols), and Amanda M. Nichols (as Amanda Melvina Nichols), as citizens by intermarriage of said nation; and that on December 8, 1896, said Commission rendered its decision therein, denying the application of the above named applicants for enrollment as citizens of the Choctaw Nation.

From the decision of said Commission an appeal was taken to the United States Court for the Southern District of Indian Territory, which court on December 27, 1897, in the case

entitled "Nancy J. Cooper, et al. vs. Choctaw Nation" (Southern District Citizenship Case No. 26), admitted Nancy A. Brown (as Nancy Alice Brown), Bettie McGarty (as Bettie Brown), Sarah Johnson (as Sarah Brown), Becky Brown, Mary Brown, Manie (or Minnie) Hudson (as Manie Brown), Alice Brown, George Brown, Susie Brown, Caswell M. Brown (as Caswell Marion Brown), Mandie Brown, Willie Brown, Pelly A. Peck (as Pelly Ann Peck), Florence Peck, Oscar Peck, Benjamin Peck (as Benjamin Grant Peck), Andrew Peck, George G. Brown, Willie Emma Brown, James B. Nichols (as James Bruton Nichols), Della May Scott (as Dell May Nichols), Nancy V. Nichols (as Nancy Velmor Nichols), Orin M. Nichols (as Orin Mayberry Nichols), James W. Nichols (as James Willis Nichols), Maggie M. Nichols (as Maggie May Nichols), Mettie Myrtle Nichols (as Myrtle Nichols), and Lonie A. Nichols (as Lonie Alta Nichols), as citizens by blood of the Choctaw Nation, and William B. Brown (as William Bluford Brown), Andrew J. Peck (as Andrew Jackson Peck), and Nancy C. Nichols (as Nancy Caroline Nichols), as citizens by intermarriage of said nation, and denied the applications for the admission of Nancy J. Brown (as Nancy Jane Brown), Sarah Brown, and Amanda M. Nichols (as Amanda Melvina Nichols), as citizens by intermarriage of the Choctaw Nation. The name of the applicant, Susie Brown, was interpolated in the judgment of said court, she not having been an applicant before the Commission to the Five Civilized Tribes in 1896.

On March 18, 1896, said case again came before said court upon a motion of the plaintiff's attorneys to correct the judgment of said court rendered December 20, 1897, and the court, thereupon, ordered said judgment corrected so as to admit the

applicants, Nancy J. Brown (as Nancy Jane Brown), Sarah Brown, Amanda M. Nichols (as Amanda Melvina Nichols), as citizens by intermarriage of the Choctaw Nation.

On September 28, 1896, said court rendered a supplemental judgment admitting Amanda Brown as a citizen by intermarriage of the Choctaw Nation.

On January 17, 1900, this cause again came before said court upon a motion of the defendant to strike out of the judgment theretofore rendered, certain names improperly admitted to citizenship, and said court being fully advised, ordered that the following names, Susie Brown, Andrew J. Peck as (Andrew Jackson Peck), Bettie McCarty (as Bettie Brown), and Becky Brown, be stricken from said former judgment.

Subsequently, upon the representation of the plaintiffs' attorneys that certain persons who were original applicants were by oversight or mistake left out of the original judgment theretofore rendered, the court ordered that the applicants, Nancy J. Brown (as Nancy Jane Brown), Sarah Brown, Amanda Brown, Amanda M. Nichols and Rebecca E. Brown be admitted to citizenship in the Choctaw Nation.

It further appears from the records of said Commission that on December 17, 1902, the Choctaw and Chickasaw Citizenship Court, created under the provisions of the Act of Congress approved July 1, 1902 (32 Stats., 641), "set aside, annulled, vacated and held for naught" the aforesaid judgment of the United States Court for the Southern District of Indian Territory.

Thereafter, the record in the above case was certified to the Choctaw and Chickasaw Citizenship Court, for a trial de novo which court, on November 29, 1904, in the case entitled, "William

Heighton Brown, et al. vs. Choctaw and Chickasaw Nations" (Choctaw Chickasaw Citizenship Court Case No. 73, Wishingmings Docket), "ordered, adjudged and decreed that the petition of the plaintiffs, William Heighton Brown (or William Knighton Brown), Caswell Marion Brown, Pally Ann Peck (nee Brown), George H. Brown (or George G. Brown), Nancy Ellis Brown (or Nancy Alice Brown), Sarah Brown, Mary Brown, Mamie Brown (or Mamie Brown), Alice Brown, George Brown, Maudie Brown (or Maudie Brown), Willie Brown, Florence Peck, Oscar Peck, Benjamin Grant Peck, Andrew Peck, William Egan Brown (or Willie Egan Brown), James Burton Nichols, (or James Bruton Nichols), Oney Mayberry Nichols (or Orin Mayberry Nichols), John William Baffle Nichols, Della May Nichols, Nancy Velmer Nichols, James Willis Nichols, Maggie May Nichols, Myrtle Nichols, Louie Alta Nichols, William Buford Brown, Nancy Caroline Nichols, Rebecca E. Brown (or Becky Brown), Rebecca C. Brown (or Rebecca Brown), Amanda Melvina Nichols, Amanda Brown, Nancy J. Brown (or Nancy Jane Brown), Sarah Brown, be denied, and that they be declared not citizens of the Choctaw Nation, and not entitled to enrollment as such citizens, and not entitled to any rights whatever flowing therefrom."

On December 12, 1904, orders were entered of record by the Commission to the Five Civilized Tribes dismissing the applications for the enrollment of Mary E. McCarty, William Egan Johnston, Minnie Gertrude Brown, Henry Hilton Brown, Elbert Knightington Brown, Otis Dewey Peck, Virgie Peck, Louie Herman Nichols and Gelda Ula Nichols as citizens by blood of the Choctaw Nation, and on March 10, 1906, an order was entered of record dismissing the application for the enrollment of Fannie C. Brown as a citizen by

blood of said nation. All of said applicants were dismissed for the reason that their parents through whom they claim their rights to enrollment as citizens by blood of the Cheetaw Nation, had been denied by a decree of the Cheetaw and Chickasaw Citizenship Court.

On December 12, 1904, orders were entered of record by the Commission to the Five Civilized Tribes dismissing the applications for the enrollment of Eli W. Brown, Bessie Nichols and Osa Nichols as citizens by intermarriage of the Cheetaw Nation, for the reason that the persons through whom they claim their rights had also been denied by a decree of the Cheetaw and Chickasaw Citizenship Court.

On March 30, 1905, the Commission to the Five Civilized Tribes denied the application for the enrollment of Susie Brown as a citizen by blood of the Cheetaw Nation, and on April 6, 1906 (I. T. D. 3810-1906), the Department set aside said decision of the Commission and returned the record to this office for a full investigation upon its merits.

Under the regulations adopted by the Commissioner to the Five Civilized Tribes of January 2, 1906, there was filed on February 6, 1906, by Grace, Grace and Bleakmore, of Ardmore, Indian Territory, attorneys for the petitioners, petitions praying that William B. Brown, Nancy A. Brown, Minnie Hudson, Sarah Johnston, Oscar Lee Johnston, William Ernan Johnston, Rebecca Brown, Minnie Gertrude Brown, Henry Nilton Brown, Rubie Dill Brown, Eli W. Brown, Mary A. Johnston, Ray Lester Johnston, Edna A. Johnston, Rebecca McCarty, William A. McCarty, Mary E. McCarty, William E. Brown, Nancy Jane Brown, George Brown, Alice Brown, Susie Brown, Gletus Brown, Clarence Brown, A. J. Peck, Felly Ann Peck, Minnie Peck, Oscar Sherman Peck, Benjamin Grant Peck, Andrew Peck, C. B. Peck,

Virgie Peck, Prebbie Peck, C. M. Brown, Amaday Brown, Mandy Brown, William Brown, Elbert K. Brown, Annie Jewel Brown, George G. Brown, Sarah Brown, Willie Emma Brown, Cassie Brown, Goldie Brown, J. B. Nichols, Nancy Nichols, Belma Nichols, John W. B. Nichols, Bessie Deaton Nichols, Louie Herman Nichols, Gelda Eula Nichols, Silva^{Jewel} Nichols, Della May Seott, Emma Seott, Orin M. Nichols, Amanda Nichols, Myrtle Nichols, Lenie Nichols, James W. Nichols, Osa Nichols, Gera Lee Nichols and Maggie Angel be enrolled as citizens of the Choctaw Nation.

All of the above petitioners, with the exception of Ollie McCarty, Lita Lois Seott, Daphne Myrtle Nichols and Teddy Golden Johnston, are identical with the applicants for whom application has been made for enrollment as citizens of the Choctaw Nation.

On April 16, 1906, the principal petitioners, their attorneys, Gruse, Gruse & Bleakmore, of Ardmore, Indian Territory, and Messrs. Mansfield, McMurray & Gornish, attorneys for the Choctaw and Chickasaw Nations, of South McAlester, Indian Territory, were advised that the Commissioner to the Five Civilized Tribes would at his office at Muskogee, Indian Territory, on Monday, May 14, 1906, at nine o'clock A. M., hear such testimony and receive such other evidence as might be submitted by the petitioners in support of their applications for enrollment as citizens of the Choctaw Nation, and by the attorneys for the Choctaw and Chickasaw Nations.

On April 16, 1906, William H. Brown, father of Susie Brown, Gruse, Gruse & Bleakmore, attorneys for said Susie Brown, and Mansfield, McMurray & Gornish, attorneys for the Choctaw and Chickasaw Nations, were advised that on April 6, 1906, the Department set aside the decision rendered by the Commission on March 20, 1906, and returned the record in said case with in-

instructions that a full investigation be made of the rights of said Susie Brown to enrollment as a citizen by blood of the Choctaw Nation; that the testimony of creditable witnesses be required showing her Choctaw blood, if any, the time and place of her birth, her various residences, her ancestors, the privileges, if any, enjoyed by her and her parents as citizens of the Choctaw Nation; and notified that the Commissioner to the Five Civilized Tribes would at his office at Muskogee, Indian Territory, on Monday, May 14, 1906, at nine o'clock A. M., hear such testimony and receive such other evidence as might be submitted in support of said application, investigation to be conducted along the lines indicated by Department letter above referred to.

On motion of Attorney for applicants, the hearing in the matter of the above application was continued on April 26, 1906, to May 21, 1906.

On May 21, 1906, proceedings were had in the matter of said applications in pursuance to the notices above mentioned.

It appears from the record herein that the applicants, William H. Brown, Caswell M. Brown, Pelly Ann Peck, George G. Brown, Nancy A. Brown and Bettie McCarty, are the children of the principal applicant, William B. Brown, and Rebecca Cooper (now deceased), who is alleged to have been a Choctaw Indian, and the daughter of William Cooper, who was the son of Johnny Cooper, an alleged Choctaw Indian, who resided near the line between the states of Tennessee and Mississippi; that Sarah Johnston, Becky Brown, Mary Johnston, Mamie (or Minnie) Nelson, Alice Brown, George Brown, Susie Brown, Fannie G. Brown and Willie Clarence Brown, are the children of the applicants.

William M. Brown and Nancy J. Brown, (the latter an applicant for intermarried rights); that William Herman, Oscar Lee and Teddy Golden Johnston are the children of the applicant, Sarah Johnston, and J. A. Johnston, a non-citizen; that Minnie Gertrude, Henry Hiten and Rubie Dill Brown are the children of the applicants, Becky Brown and Eli W. Brown, (the latter an applicant for intermarried rights); that Ray Lester and Edna Arvel Johnston are the children of the applicant, Mary Johnston, and Jacob J. Johnston, a non-citizen; that Naudie, Willie, Elbert Knightington, and Annie Jewell Brown are the children of the applicant, Caswell M. Brown and Amanda Brown (the latter an applicant for intermarried rights); that Florence, Oscar, Benjamin, Andrew, Otis Dewey Virgie and Prebble Peck are the children of the applicant, Pelly Ann Peck and Andrew J. Peck (the latter an applicant for intermarried rights); that Willie Emma, Cassie and Geldie Brown are the children of the applicants, George G. Brown and Sarah Brown (the latter an applicant for intermarried rights); that Mary Ethel, William A. and Ollie McCarty are the children of the applicant, Bettie McCarty, and Oliver McCarty, a non-citizen; that James B. Nichols and Grim M. Nichols are the children of Wilson Nichols (now deceased), a non-citizen, and Delitha Cooper (now deceased), who is alleged to have been a Choctaw Indian and the daughter of John Cooper, above referred to; that John W. B. Nichols, Della May Scott and Nancy W. Nichols are the children of the applicant, James B. Nichols and Nancy C. Nichols (the latter an applicant for intermarried rights); that Louis Herman, Golda Ula and Sylvia Jewel Nichols are the children of the applicant, John W. B. Nichols and Beattie Nichols (the latter an applicant for

intermarried rights); that Nema May and Lita Lois Scott are the children of the applicant, Della May Scott, and Burris Scott, a non-citizen; that James W., Maggie M., Nettie Myrtle and Louis A. Nichols are the children of the applicant, Orin M. Nichols and Amanda M. Nichols (the latter an applicant for intermarried rights); and that the applicant, Cera Lee and Daphne Myrtle Nichols, are the children of the applicants, James W. Nichols and Osa Nichols (the latter an applicant for intermarried rights).

The applicant, William B. Brown, claims his right to citizenship in the Choctaw Nation by the virtue of his marriage on February 10, 1858, under the laws of the state of Arkansas, to Becky Cooper (now deceased); that Nancy Brown claims her right to enrollment as a citizen by intermarriage by virtue of her marriage to the applicant, William B. Brown, on September 21, 1879; that Eli W. Brown claims his right to enrollment as a citizen by intermarriage by virtue of his marriage on August 21, 1899, under the laws, customs and usages of the Chickasaw Nation to the applicant, Becky Brown, both of said applicants being at said time residents in good faith of the Chickasaw Nation; that Amanda Brown claims her right to enrollment as a citizen by intermarriage by virtue of her marriage on December 2, 1886, to the applicant, Caswell M. Brown; that Andrew J. Peck claims his right to enrollment as a citizen by intermarriage by virtue of his marriage on December 18, 1887, under the laws of the state of Arkansas to the applicant, Polly A. Peck; that Sarah Brown claims her right to enrollment as a citizen by intermarriage by virtue of her marriage to George G. Brown on June 9, 1898; that the applicant, Nancy G. Nichols, claims her right to enrollment as a citizen by intermarriage by virtue of her marriage to the applicant, James B.

Nichols, on March 9, 1873; that the applicant, Bessie Nichols, claims her right to enrollment as a citizen by intermarriage by virtue of her marriage on September 11, 1898, to the applicant, John W. B. Nichols; that Amanda M. Nichols claims her right to enrollment as a citizen by intermarriage by virtue of her marriage on October 20, 1878, to the applicant, Orin M. Nichols; and that Osa Nichols claims her right to enrollment as a citizen by intermarriage by virtue of her marriage on April 27, 1899, to the applicant, James W. Nichols.

It does not appear from the record herein or from the records in the possession of this office that the applicant, Andrew J. Peck, has ever been admitted to Choctaw citizenship by a duly constituted court or committee of the Choctaw Nation, nor has said applicant ever been married to Pally Ann Peck, through whom he claims his intermarried rights, by virtue of a license issued by the tribal authorities of either the Choctaw or Chickasaw Nation.

At the hearing before the Commissioner to the Five Civilized Tribes on May 21, 1906, William N. Brown, Caswell M. Brown, James B. Nichols and Orin M. Nichols testified that in 1894, they, together with the other applicants herein who were living at said time, petitioned the Choctaw Council for admission as citizens of the Choctaw Nation; that no action having been taken thereon, they, in 1896, appeared before the Choctaw Census Commission and made application to be enrolled upon the 1896 Choctaw Census Roll; and that some time in January, 1897, they received a certificate from the Secretary of the Choctaw Advisory Board, wherein it appeared that they had been enrolled upon the 1896 Choctaw Census Roll. Said applicants further testified

that prior to 1896 they had been permitted to issue permits for their tenants, held lands, and were not subject to any tribal tax which was due from all non-citizens who were engaged in the mercantile business.

On June 4, 1906, John H. Gamblin testified that he was acquainted with the applicants herein, and that in October, 1894, he having business before the Choctaw Council, presented on behalf of the applicants herein who were living at that time, a petition praying that they be admitted as citizens of the Choctaw Nation, and that he does not know what action, if any, was ever taken thereon.

Upon an examination of the tribal rolls of the Choctaw Nation in the possession of this office, it appears that the applicants, William B. Brown, William H. Brown, Nancy J. Brown, Caswell M. Brown, Amanda Brown, Polly Ann Peck, Andrew J. Peck, George G. Brown, Sarah Brown, Nancy A. Brown, Bettie McCarty, Sarah Johnston, Becky Brown, Mary Johnston, Mamie (or Minnie) Hudson, Alice Brown, George Brown, Basie Brown, Mandie Brown, Willie Brown, Florence Peck, Oscar Peck, Benjamin Peck, Andrew Peck, James B. Nichols, Nancy C. Nichols, Orin M. Nichols, Amanda M. Nichols, John W. B. Nichols, Della May Scott, Nancy V. Nichols, James W. Nichols, Maggie M. Nichols, Mattie Myrtle Nichols and Lemie A. Nichols, are identified upon the 1896 Choctaw Census Roll opposite numbers 1688, 1691, 1692, 1701, 1702, 10818, 10817, 1705, 1706, 1699, 1690, 1693, 1694, 1695, 1696, 1697, 1698, 1699, 1703, 1704, 10819, 10820, 10821, 10822, 9803, 9806, 9812, 9813, 9809, 9810, 9811, 9814, 9815, 9816 and 9817, respectively.

It further appears from the record herein that all of

the applicants, that were living on June 28, 1898, were residents in good faith of the Indian Territory on said date.

The evidence in this case further shows that the applicant, Daphne Myrtle Nichols, died on June 27th 1901.

I am of the opinion that in accordance with the opinions of the Assistant Attorney General for the Department of the Interior of February 10, 1903 (I. T. D. 10363-1904) and December 8, 1903 (I. T. D. 3693-1903), in the case of Lula West, the action of the Commission to the Five Civilized Tribes, and the subsequent action of the United States Court for the Southern District of Indian Territory, and the Choctaw and Chickasaw Citizenship Court, upon the right of the applicants who applied to the Commission to the Five Civilized Tribes in 1896, with the exception of Andrew J. Peck, was without authority of law, and of no force and effect upon the status of said applicants as citizens of the Choctaw Nation.

I am further of the opinion that the orders of the Commission to the Five Civilized Tribes of December 12, 1904 and March 18, 1906, dismissing the applications for the enrollment of Mary E. McCarty, William Brown Johnston, Minnie Gertrude Brown, Fannie C. Brown, Henry Witen Brown, Elbert Knightington Brown, Otis Dewey Peck, Virgie Peck, Louis Herman Nichols and Gelda Wla Nichols as citizens by blood of the Choctaw Nation, and Eli W. Brown, Bessie Nichols and Ora Nichols as citizens by inter-marriage of the Choctaw Nation, should be rescinded.

I am further of the opinion that in accordance with the opinions of the Assistant Attorney General for the Department of the Interior of March 3, 1906 (I. T. D. 127-1906) and March 18,

1906 (L. T. D. 9889-1906), Nancy A. Brown, Bettie McCarty, Mary Ethel McCarty, William W. Brown, Sarah Johnston, Becky Brown, Mary Johnston, Mamie (or Minnie) Hudson, Alice Brown, George Brown, Sannie Brown, William Erman Johnston, Minnie Gertrude Brown, Henry Witten Brown, Fannie G. Brown, Caswell M. Brown, Maude Brown, Willie Brown, Elbert Knightington Brown, Pelly A. Peck, Florence Peck, Oscar Peck, Benjamin Peck, Andrew Peck, Otis Dewey Peck, Virgie Peck, George G. Brown, Willie Emma Brown, James B. Nichols, Della May Scott, Nancy V. Nichols, John W. B. Nichols, Louie Herman Nichols, Golda Ula Nichols, Oria M. Nichols, James W. Nichols, Maggie M. Nichols, Nettie Myrtle Nichols and Lenie A. Nichols should be enrolled as citizens by blood of the Choctaw Nation, under the provisions of the Acts of Congress approved June 28, 1898 (30 Stats., 495) and July 1, 1902 (32 Stats., 641), and it is so ordered.

I am further of the opinion that William B. Brown, Nancy Brown, Eli W. Brown, Amanda Brown, Sarah Brown, Nancy C. Nichols, Bessie Nichols, Amanda M. Nichols and Osa Nichols should be enrolled as citizens by intermarriage of the Choctaw Nation, under the provisions of the Acts of Congress approved June 28, 1898 (30 Stats., 495) and July 1, 1902 (32 Stats., 641), and it is so ordered.

I am further of the opinion that the application made for the enrollment of Andrew J. Peck as a citizen by intermarriage of the Choctaw Nation should be denied, under the provisions of the Act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered.

I am further of the opinion that William A. McCarty, Ollie McCarty, Oscar Lee Johnston, Willie Clarence Brown, Ray

Master Johnston, Edna Arvel Johnston, Teddy Golden Johnston, Eddie Bill Brown, Annie Jewell Brown, Freddie Peck, Cassie Brown, Goldie Brown, Mame May Booth, Lila Lois Booth, Myrtle Jewel Nichols and Vera Lee Nichols should be enrolled as citizens by blood of the Cheateau Nation, under the provisions of the Act of Congress approved April 28, 1906 (Public No. 189), and it is so ordered.

I am further of the opinion that the application made for the enrollment of Daphne Myrtle Nichols as a citizen by blood of the Cheateau Nation should be dismissed, and it is so ordered.

COMMISSIONER.

Washoe, Indian Territory.

Aug. 13, 1906.

7-5060

7-D-432

Muskogee, Indian Territory, August 13, 1906.

Becky Brown,

Comanche, Indian Territory.

Dear Madam:

Inclosed herewith you will find a copy of the decision of the Commissioner to the Five Civilized Tribes rendered August 13, 1906, granting the application for the enrollment of Becky Brown, Minnie Gertrude Brown, Henry Niten Brown and Rubie Dill Brown as citizen by blood of the Choctaw Nation, and your husband, Eli W. Brown as a citizen by intermarriage of said nation.

The decision, with the record of proceedings in the case is this day transmitted to the Secretary of the Interior for review. The final decision of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

(signed) TAMS BIXBY
Commissioner.

Registered.

HAH 5/13

Waskogen, Indian Territory, August 13, 1906.

Cruce, Cruce & Bleakmore,

Attorneys at Law,

Ardmore, Indian Territory,

Gentlemen:

Inclosed herewith you will find a copy of the decision of the Commissioner to the Five Civilized Tribes, rendered August 13, 1906, granting the applications for the enrollment of Nancy A. Brown, Kate McCarty, Mary Ethel McCarty, William W. Brown, Sarah Johnston, Becky Brown, Mary Johnston, Mamie (or Minnie) Hudson, Alice Brown, George Brown, Susie Brown, William Bryan Johnston, Minnie Gertrude Brown, Henry Hilen Brown, Fannie C. Brown, Caswell W. Brown, Maudie Brown, Willie Brown, Elbert Knightington Brown, Polly A. Peck, Florence Peck, Oscar Peck, Benjamin Peck, Andrew Peck, Otis Dewey Peck, Virgie Peck, George G. Peck, Willie Emma Brown, James R. Nichols, Della May Scott, Nancy V. Nichols, John W. R. Nichols, Louis Herman Nichols, Golda Ula Nichols, Orin M. Nichols, James W. Nichols, Maggie V. Nichols, Nettie Myrtle Nichols, Lonie A. Nichols, William A. McCarty, Ollie McCarty, Oscar Lee Johnston, Willie Clarence Brown, Ray Lester Johnston, Edna Arvel Johnston, Teddy Golden Johnston, Rubie Dill Brown, Annie Jewell Brown, Probble Peck,

C. C. & B. #2

Cassie Brown, Goldie Brown, Nema May Scott, Lita Lois Scott, Sylvie Jewel Nichols and Cera Lee Nichols, as citizens by blood, and for the enrollment of William B. Brown, Nancy Brown, Eli W. Brown, Amanda Brown, Sarah Brown, Nancy C. Nichols, Bessie Nichols, Amanda M. Nichols and Osa Nichols, as citizens by intermarriage, of the Choctaw Nation; denying the application for the enrollment of Andrew J. Peck as a citizen by intermarriage of the Choctaw Nation, and dismissing the application for the enrollment of Daphne Myrtle Nichols as a citizen by blood of said nation.

The decision, with the record of proceedings in the case, is this day transmitted to the Secretary of the Interior for review. The final decision of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

SIGNED

Registered.

Commissioner.

Incl. WAM 12/11

7-5060

Muskogee, Indian Territory, August 13, 1906.

Mansfield, McMurray & Cornish,

Attorneys for Choctaw and Chickasaw Nations,

South McAlester, Indian Territory,

Gentlemen:

Inclosed herewith you will find a copy of the decision of the Commissioner to the Five Civilized Tribes, rendered August 13, 1906, granting the application for the enrollment of Nancy A. Brown, Bettie McCarty, Mary Ethel McCarty, William N. Brown, Sarah Johnston, Becky Brown, Mary Johnston, Mamie (or Minnie) Hudson, Alice Brown, George Brown, Susie Brown, William Erman Johnston, Minnie Gertrude Brown, Henry Hiten Brown, Fannie C. Brown, Caswell M. Brown, Maudie Brown, Willie Brown, Elbert Knightington Brown, Polly A. Peck, Florence Peck, Oscar Peck, Benjamin Peck, Andrew Peck, Otis Dewey Peck, Virgie Peck, George G. Brown, Willie Rana Brown, James R. Nichols, Della May Scott, Nancy V. Nichols, John W. B. Nichols, Louie Herman Nichols, Golda Ula Nichols, Orin M. Nichols, James W. Nichols, Maggie M. Nichols, Mettie Myrtle Nichols, Lonie A. Nichols, William A. McCarty, Ollie McCarty, Oscar Lee Johnston, Willie Clarence Brown, Roy Lester Johnston, Edna Arval Johnston, Teddy Golden, Johnston, Rubie Dill Brown, Annie Jewell Brown, Prebble Peck,

Cassie Brown, Goldie Brown, Nema May Scott, Lita Lois Scott, Sylvie Jewel Nichols and Cora Lee Nichols, as citizens by blood, and for the enrollment of William B. Brown, Nancy Brown, Eli W. Brown, Amanda Brown, Sarah Brown, Nancy C. Nichols, Bessie Nichols, Amanda M. Nichols and Osa Nichols, as citizens by intermarriage, of the Choctaw Nation; denying the application for the enrollment of Andrew J. Peck, as a citizen by intermarriage, and dismissing the application for the enrollment of Daphne Myrtle Nichols as a citizen by blood of the Choctaw Nation.

The decision, with the record of proceedings in the case, is this day transmitted to the Secretary of the Interior for review. The final decision of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

Registered,

Commissioner.

Incl. HAN 17/11

NEW BORN

100

IN RE

Application for Enrollment of

MINOR CHILD

Act of Congress Approved
April 20, 1906.

Minnie Gertrude Brown

as a citizen of

CHOCTAW

Nation.

Approved. 190

Commissioner.

Born Aug. 13, 1900

ACT OF CONGRESS APPROVED APRIL 20, 1906.

DEPT. OF THE INTERIOR

JUL 2 1906

Dile
CHOCTAW

5060

7-6019

RECEIVED
JUN 6 1906

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

ENROLLMENT OF MINORS. ACT OF CONGRESS, APPROVED APRIL 26, 1906.

IN RE APPLICATION FOR ENROLLMENT, as a citizen of the Choctaw Nation,
of Minnie Gertrude Brown, born on the 13 day of August 1900
Name of Father: Eli W Brown a citizen of the Choctaw Nation.
Name of Mother: Rebecca C Brown a citizen of the Choctaw Nation.
Tribal enrollment of father: none Tribal enrollment of mother: none
Postoffice: Comanche IA

AFFIDAVIT OF MOTHER.

UNITED STATES OF AMERICA, Indian Territory,

Southern District.

I, Rebecca C Brown, on oath state that I am 23
years of age and a citizen by blood of the Choctaw Nation;
that I am the lawful wife of Eli W Brown, who is a citizen, by
Intermarriage of the Choctaw Nation; that a female child was
born to me on 13 day of August 1900; that said child has been named
Minnie Gertrude Brown and was living March 4, 1906.

Rebecca C Brown

WITNESSES TO MARK:

[Must be Two
Witnesses]

Subscribed and sworn to before me this

4th

day of June 1906.

E H Bond

Notary Public

AFFIDAVIT OF ATTENDING PHYSICIAN OR MID-WIFE.

UNITED STATES OF AMERICA, Indian Territory,

Southern District.

I, H A Conger, a Physician, on oath state that I
attended on Rebecca C Brown, wife of Eli W Brown,
on the 13th day of Aug 1900; that there was born to her on said date a female
child; that said child was living March 4, 1906, and is said to have been named

Minnie Gertrude Brown

H A Conger M D

WITNESSES TO MARK:

[Must be Two
Witnesses]

Subscribed and sworn to before me this

4th

day of June 1906.

E H Bond

Notary Public

Department of the Interior.

Commission to the Five Civilized Tribes.

In the matter of the application of Eli W. Brown
for enrollment as an intermarried citizen of the
Choctaw Nation.

---D 432---

On the 3rd day of March, 1902, the applicant was notified by registered mail, and on the 6th day of March, 1902, the attorneys for the Choctaw and Chickasaw Nations were notified by registered mail that the application of Eli W. Brown for enrollment as a citizen of the Choctaw Nation would be taken up by the Commission to the Five Civilized Tribes at its office in Muskogee, Indian Territory, on the 11th day of April, 1902, for final consideration.

Now, on this 11th day of April, 1902, this cause coming on to be heard pursuant to said notice, the Choctaw Nation failed to appear, and the applicant being called failed to appear either in person or by attorney.

Harry C Risteen, being first duly sworn, upon his oath states That as stenographer to the Commission to the Five Civilized Tribes he reported in full all proceedings had in the above entitled cause on the 11th day of April, 1902, and that the above and foregoing is a full, true and correct transcript of his stenographic notes of said proceedings on said date.

Harry C Risteen

Subscribed and sworn to before me this 12th day of April, 1902.

Charan Mitchell Wood

Notary Public.

NEW BORN

190

IN RE

Application for Enrollment of

MINOR CHILD

Act of Congress Approved
April 26, 1906.

Henry Nitau Brown

as a citizen of

CHOCTAW

Nation.

Approved.....

190

Commissioner.

Born May 21, 1902

ACT OF CONGRESS APPROVED APRIL 26, 1906.

UNITED STATES

DEPARTMENT OF THE INTERIOR

JUL 25 1906

CHOCTAW

7-6019

RECEIVED
JUN 6 1906

DEPARTMENT OF THE INTERIOR,

COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

ENROLLMENT OF MINORS. ACT OF CONGRESS. APPROVED APRIL 26, 1906.

IN RE APPLICATION FOR ENROLLMENT, as a citizen of the Choctaw Nation,
 of Henry Hiten Brown, born on the 21 day of May, 1902
 (Here insert name of child)
 Name of Father: Eli W Brown a citizen of the Choctaw Nation.
 Name of Mother: Rebecca C. Brown a citizen of the Choctaw Nation.
 Tribal enrollment of father: none Tribal enrollment of mother: none
 Postoffice: Comanche, IT.

AFFIDAVIT OF MOTHER.

UNITED STATES OF AMERICA, Indian Territory.

Southern District.

I, Rebecca C Brown, on oath state that I am 23
 years of age and a citizen by blood of the Choctaw Nation;
 that I am the lawful wife of Eli W Brown, who is a citizen, by
 intermarriage of the Choctaw Nation; that a male child was
 (Male or Female)
 born to me on 21 day of May, 1902; that said child has been named
Henry Hiten Brown and was living March 4, 1906.
Rebecca C Brown

WITNESSES TO MARK:

[Must be Two
Witnesses]

Subscribed and sworn to before me this

4th

day of

June

1906.

E H Bond

Notary Public.

AFFIDAVIT OF ATTENDING PHYSICIAN OR MID-WIFE.

UNITED STATES OF AMERICA, Indian Territory.

Southern District.

I, H A Conger, a physician, on oath state that I
 attended on Rebecca C. Brown, wife of Eli W Brown
 on the 21 day of May, 1902; that there was born to her on said date a male
 (Male or Female)
 child; that said child was living March 4, 1906, and is said to have been named
Henry Hiten Brown H A Conger M.D.

WITNESSES TO MARK:

[Must be Two
Witnesses]

Subscribed and sworn to before me this

4th

day of

June

1906.

E H Bond

Notary Public.

Muskogee, Indian Territory, September 17, 1900.

Eli W. Brown,

Comanche, Indian Territory.

Dear Sir:

The Commission is in receipt of your letter of the 13th instant in which you state that you have an infant child whom you desire to have enrolled as a citizen of the Choctaw Nation and request that you be furnished with instructions and the necessary blank for such an application.

In accordance with your request there is enclosed herewith a blank of the description desired. In having the same executed be careful to see that all blanks are filled, all names written in full and in the event that the signatures to the affidavits of the mother or the attending physician or nurse at the birth of the child are by mark that the same are attested by two disinterested parties as witnesses. The Notary Public taking the acknowledgements to these affidavits must affix his notarial jurat and seal to each separate affidavit.

Yours truly,

Acting Chairman.

BC

7-5060

Muskogee, Indian Territory, October 1, 1900.

Eli W. Brown,

Comanche, Indian Territory.

Dear Sir:

The Commission is in receipt of an application for enrollment as a citizen of the Choctaw Nation of Minnie Gertrude Brown, the infant daughter of Eli W. and Rebecca C. Brown, born August 13th, 1900.

In the affidavit of the mother it is stated that Rebecca C. Brown is eighteen years old and a citizen by blood of the Choctaw Nation and that her husband, Eli W. Brown, is a citizen by intermarriage of the Choctaw Nation.

The Commission is able to identify you as having been listed for enrollment but the only Becky Brown appearing upon the records of this Commission is the daughter of William N. and Nancy J. Brown, listed for enrollment September 22nd, 1898, in pursuance of a judgment of the United States Court for the Southern District of the Indian Territory rendered at Ardmore December 30th, 1897, in court case No. 96.

You are therefore requested to furnish the Commission with more definite information as to your wife's enrollment, if the party above described is not your wife and the mother of the child for whom this application is made. You are requested to inform the Commission also as to her maiden name, the names of other members of her family who made application at the same time and

H. V. B. (2)

any other information that may lead to her identification.

The application is returned to you herewith and when forwarded to the Commission with the information requested, will receive proper consideration.

Yours truly,

Acting Chairman.

Enc 3

In reply please
refer to 7-3060

Muskogee, Indian Territory, October 13, 1900.

Eli W. Brown,

Comanche, Indian Territory.

Dear Sir:

The Commission is in receipt of your letter of the 9th instant, giving information as to the enrollment of your wife and enclosing the marriage license and certificate between E. W. Brown and Miss Becky Brown.

From the information contained in your letter the Commission has been able to identify Becky Brown as being listed for enrollment as a citizen of the Choctaw Nation. The marriage license and certificate has been made a matter of record and upon the return of the application for the enrollment as a citizen of the Choctaw Nation of Minnie Gertrude Brown, the matter will be given proper consideration.

Yours truly,

Acting Chairman.

7-5060

Muskogee, Indian Territory, October 19, 1900.

Eli W. Brown,

Comanche, Indian Territory.

Dear Sir:

The Commission is in receipt of the application for enrollment as a citizen by blood of the Choctaw Nation of Minnie Gertrude Brown, the infant daughter of Eli W. and Rebecca C. Brown, born August 13th, 1900.

The same being in proper form has been duly filed with the records of this Commission and the child listed for enrollment as a citizen of the Choctaw Nation.

Yours truly,

Acting Chairman.

Muskogee, Indian Territory, June 10, 1902.

Eli W. Brown,

Comanche, Indian Territory.

Dear Sir:

Receipt is hereby acknowledged of the application for enrollment as a citizen of the Choctaw Nation of Henry Witen Brown, infant son of Eli W. and Rebecca C. Brown, born May 21, 1902, and the same is returned to you herewith.

You are informed that the records of the Commission show that the mother of the child for whom application is made was admitted to citizenship by the United States Court as Becky Brown, and her name appears upon our records as Becky Brown.

The rules of the Commission require that in making an application for the enrollment of an infant child the name of the mother must be signed to her affidavit identically the same as it appears upon our record when she was listed for enrollment.

Upon return of the application for the enrollment of your child with the mother's name signed to her affidavit in accordance with the information contained herein, the matter will receive further consideration.

Yours truly,

Comanche, Ind. Ter., June the 14, 1902.

Commission to the Five Civilized tribes,
Muskogee, I. T.

dear Sirs, i am in receipt of

your letter of recent date. and also the return of the application for Citizenship of the Choctaw Nation of Henry, Niten Brown.

i am informed in your letter that my Wife was admitted to Citizenship as, Becky Brown. So She Was, But it was Since, corrected By the Court at ardmore and replaced, on the records there, Rebecca C. Brown. i Sent the application of our daughter Minnie Gertrude-Brown Born August the 13 1900 and the Commission returned her application with the Same information as this time. and asked for an explanation and identification of my wife. i Sent my marriage license and other explanations, and in answer, the Commission Said: the commission is able to identify her and on return of the application they would attend to it -)See next Page)

2 Page

So i Sent the application Back, of Minnie-Gertrude Brown. daughter of Eli W. and Rebecca. C. Brown Born august 13 1900. and the Commission listed her for Enrollment. Our marriage license is in the hands of the daws Commission and is Signed E. W. Brown and Becky Brown. you will please Notify me whether to return the application as it is now and as it was when her other Baby was enrolled or will i have to change it to Beck Brown. Yours Truly Eli W. Brown.

P. S. I was notified in march that the application for Citizenship of myself would Be taken up for final consideration on the 11 of April 1 Sent Mr. W. T. Cruce to attend to it for me, Please tell me what was done with it Yours Truly

Eli W. Brown.

Choctaw 5060

Waskogee, Indian Territory, June 1, 1902.

Eli W. Brown,

Comanche, Indian Territory.

Dear Sir:

Receipt is hereby acknowledged of your letter of June 14, 1902, relative to the correct name of your wife.

If you will now return the application for the enrollment of your child, the matter will be given further consideration.

Yours truly,

Commissioner in Charge.

Chectaw 8060

Muskogee, Indian Territory, July 3, 1902.

Eli W. Brown,

Comanche, Indian Territory.

Dear Sir:

Receipt is hereby acknowledged of the application for enrollment as a citizen of the Chectaw Nation of Henry Hiten Brown, the infant son of Eli W. and Becky Brown, born May 21, 1902, and the same being in proper form has been duly filed with the records of this office and the child listed for enrollment as a citizen of the Chectaw Nation.

Yours truly,

Commissioner in Charge.

7-D-432

Muskogee, Indian Territory, January 18, 1906.

Eli W. Brown,

Comanche, Indian Territory,

Dear Sir:

In compliance with your telegraphic request there is inclosed herewith a certified copy of the marriage license and certificate between E. W. Brown and Miss Beckey Brown of August 21, 1899.

Respectfully,

LM 1/18.

Commissioner.

SPECIAL.

J.P.

DEPARTMENT OF THE INTERIOR,

WASHINGTON.

**D.C. 2920-1907.
I.T.D 25868-1906.
818-1907.**

**THE
January 18, 1907.**

LRS

**Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.**

Sir:

Referring to departmental letters of January 9 and 14, 1907, in the matter of the applications for the enrolment of Mattie Shockley et al., as citizens by blood of the Choctaw Nation, you are advised that by direction of the President the case will be submitted to the Attorney-General for his opinion. You will suspend action relative to these claimants until further advised.

Respectfully,

Thos Ryan

First Assistant Secretary.

Muskogee, Indian Territory, May 1, 1907.

Carr & Rogers,

Attorneys at Law,

Pauls Valley, Indian Territory.

Gentlemen:

Receipt is hereby acknowledged of your letter of April 25, 1907, in which you state you are representing the interests of S. H. Love, guardian for the estate of George Edward Richmond Love; that he filed on some land which is being contested by Eli Brown and his wife Rebecca C. Brown; you state you think these parties were court claimants and ask if they have been disallowed in the late rulings. You further state that you have been informed that Eli and Rebecca Brown have been enrolled and ask for verification of this statement, as if this is true the allotment for this citizen will have to be cancelled.

In reply to your letter you are advised that the decision of the Commissioner to the Five Civilized Tribes of August 13, 1906, enrolling Eli W. Brown, his wife Beaky Brown and their children as citizens of the Choctaw Nation, was reversed by the Secretary of the Interior in accordance with an opinion of the Attor-

C. & R. #2.

ney General of the United States of February 19, 1907, and the enrollment of Eli W. Brown, Becky Brown, Minnie Gertrude Brown and Henry Niten Brown ~~was~~ disapproved by the Department March 1, 1907.

Respectfully,

Acting Commissioner.

D. C. 14887-1907.

SPECIAL

JFJR.
LJB

DEPARTMENT OF THE INTERIOR,

WASHINGTON. March 1, 1907.

I. T. D. 5742-1907.

Commissioner to the Five Civilized Tribes,

Muskogee, Indian Territory.

Sir:

On February 28, 1907 (Land 14412), the Indian Office transmitted your report dated August 14, 1906, in the matter of the application of William M. Brown et al. for enrollment as citizens of the Choctaw Nation, together with your decision of August 13, 1906, favorable to said applicants.

On February 7, 1907, you transmitted schedules of citizens of the Choctaw Nation, as follows: Citizens by blood, Nos. 16121 to 16159, inclusive; citizens by marriage, Nos. 1637 to 1645, inclusive, and minor citizens by blood, Nos. 857 to 872, inclusive.

You recommend that if your decision in this case is affirmed by the Department that said schedules be approved.

The Indian Office reports that the applicants in this case are precluded from enrollment by reason of an adverse decision of the Choctaw and Chickasaw Citizenship Court dated November 29, 1904. It accordingly recommends that the applications of all parties to this case be denied, and that the schedules transmitted be disapproved. A copy of its letter is inclosed.

In view of the decision of the Attorney-General dated

-2-

February 19, 1907, in the case of Loula West et al., your decision dated August 13, 1906, is hereby reversed.

The schedules transmitted are disapproved, and three copies of each are returned herewith. The originals, a carbon copy hereof, and the papers in the matter have been sent to the Indian Office.

Respectfully,

E. A. Hitchcock,

Secretary.

10 inc. and 6 to Ind. Of.

A P No.
3-2-07.

Land.
71868-1906
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14412-1907

Copy.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,

WASHINGTON. February 28, 1907.

The Honorable,

The Secretary of the Interior.

Sir:

Referring to Departmental letter of April 6, 1906 (I. T. D. 3810-1906), there is forwarded herewith report of Commissioner Bixby, dated August 14, 1906, relative to the application of William B. Brown, et al., for enrollment as citizens of the Choctaw Nation, with the decision of the Commissioner, dated August 13, 1906, admitting certain of the petitioners and denying the applications of others.

The applicants in this case are as follows:

William B., Nancy A., Bettie, William W., Sarah, Becky, Mary, Mamie or Minnie, Alice, George, Susie, Eli W., Nancy, Caswell M., Maudie, Willie, Amanda, George G., Willie, Emma, Sarah, Minnie, Gertrude, Fannie C., Willie Clarence, Henry Niten, Rubie Dill, Elbert Knightington, Annie Jewell, Cassie, and Goldie Brown; Andrew J., Pelly A., Florence, Oscar, Benjamin G., Andrew, Otis Dewey, Virgie, and Prebble Peck; James B., Della May, Nancy V., Nancy C., John W. B., Bessie, Orin M., James W., Maggie W., Nettie Myrtle, Lonie A., Amanda M., Osa, Louis Herman, Goldie Ula, Sylvie Jewell, Cera Lee, and Daphne Myrtle Nichols; Mary Ethel, William A., and Ollie McCarty; William Erman, Roy Lester, Edna Arvel, and

Teddy Golden Johnston; Nema May and Lita Lois Scott.

It appears from the record herein that on September 9, 1896, in the case of "Nancy Cooper, et al., vs. the Choctaw Nation," original application was made to the Commission to the Five Civilized Tribes under the provisions of the act of June 10, 1896 (29 Stat. L., 321) for admission to citizenship in the Choctaw Nation of certain of the applicants herein; that the Commission rendered its decision therein on December 8, 1896, denying the application for enrollment of certain of the above named persons; that from this decision an appeal was taken to the United States Court for the Southern District of the Indian Territory, which court on December 27, 1897, in the case entitled "Nancy J. Cooper, et al., vs. the Choctaw Nation," admitted certain of the applicants therein as citizens by blood and inter-marriage of the Choctaw Nation, and denied the applications of others.

On March 18, 1898, September 28, 1898, and January 17, 1900, the case again came before the United States District Court and certain applicants who were omitted in the original decree were added and certain others who were included in the original decree were stricken out.

On December 17, 1902, the Choctaw and Chickasaw Citizenship Court "set aside, annulled, vacated and held for naught" the aforesaid judgment of the United States District Court.

Thereafter the record in the case was certified to the Cheetaw and Chickasaw Citizenship Court for trial de novo, which court on November 29, 1904, in the case entitled William Neighton Brown, et al., vs. the Cheetaw and Chickasaw Nations, "ordered, adjudged and decreed that the petition be denied, and that the persons therein included be declared not citizens of the Cheetaw Nation and not entitled to enrollment as such citizens, and not entitled to any rights whatever flowing therefrom."

The following named persons were included in the above judgment:

William Neighton, Caswell Marion, George R., Money Ellis, Sarah, Mary, Momie or Mamie, Alice, George, Mondie or Naudie, Willie, William Emma, William Buford, Rebecca E., Rebecca G., Amanda, Nancy J., and Sarah Brown; Florence, Polly Ann, Oscar, Benjamin Grant, and Andrew Peck; James Burton, Oney Mayberry, John William Beffle, Della May, Nancy Velmor, James Willis, Maggie May, Myrtle, Lonie Alta, Nancy Caroline, and Amanda Melvina Nichols.

It further appears from the record that all of the applicants herein who were not included in the judgment of the Cheetaw and Chickasaw citizenship court of November 29, 1904, have only such right to enrollment as accrues to them through their relationship by blood or intermarriage to those who were included in that judgment.

Under the ruling of the Attorney General of the United States, of February 19, 1907, in the case of Loula West, and

Myrtle Randolph, analogous hereto, the judgment of the Choctaw and Chickasaw Citizenship Court of November 29, 1904, is final as to the right to enrollment of the applicants included therein.

As to such of the applicants now under consideration and who were included in that judgment, it is recommended that they be now denied enrollment and their applications dismissed.

As to all the other applicants herein, it appearing that they possess only such right to enrollment as accrues to them through their relationship by blood or intermarriage to those included in the judgment of the Choctaw and Chickasaw Citizenship Court, it is also recommended that their petitions be now denied.

There is inclosed herewith a schedule containing the names of the applicants in this case, and it is recommended that it be disapproved.

Very respectfully,

C. F. Larrabee,

Acting Commissioner.

AJW:LM

D.C. 16813.
I.T.D. 6910-1907.
L.R.S.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

J.F.Jr.
LJB

March 11, 1907L

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

The receipt is acknowledged of your communication of February 26, 1907, calling the attention of the Department to the fact that the Choctaw enrollment case of William B. Brown et al. falls within the opinion of the Attorney-General dated February 19, 1907, in the Choctaw enrollment cases of Leula West et al. and William C. Thompson et al.

You recommend that your decision of August 14, 1906, in this case be not approved by the Department, and that the schedules transmitted with your letter of February 7, 1907, be disapproved by the Department.

You are advised that on March 1, 1907, the Department reversed your decision in the matter of the application of William B. Brown et al., in view of the opinion of the Attorney-General above mentioned and disapproved the schedules containing the names of the parties to this case forwarded by you.

Respectfully,

Jesse E. Wilson,

Assistant Secretary.

1 inclosure, to I.O.

Through the Commissioner
of Indian Affairs.

D.O.M.

DEPARTMENT OF THE INTERIOR,

WASHINGTON.

J.W.H.
W.C.R.
J.W.L.

GVV
File-5-51.

March 1, 1909.

The Commissioner
to the Five Civilized Tribes.

Sir:

January 25, 1909, you were advised that the names of certain persons were inadvertently included in Departmental letter of January 19, 1909 (File 5-51); that such mistake was due to the fact that it was supposed they were enrolled upon schedules approved by the Department, when in fact, the only schedules upon which their names appear were disapproved, and that no action should be taken under the circumstances looking to the erasure of interlineations or notations, if any, from the disapproved schedules, in connection with their names.

The names of the persons referred to in said letter of January 25, 1909, are as follows:

Choctaws by Blood.

Roll No.

16103	Elizabeth Allen.
16112	George A. Dugan.
16110	Louitia Gratchfield.
16106	Everett Gratchfield.

16111	George W. Crutchfield.
16105	Ida Crutchfield.
16107	Ima Crutchfield.
16108	Levinia Crutchfield.
16109	William Crutchfield.
921	Josephine Laflere Long.
922	Jake Laflere Long.
16104	David Ritter.

It now appears from the records of the Secretary's Office that there was a schedule approved May 21, 1904, by the Secretary of the Interior, and that the approval then given was cancelled by said Secretary at a later date, to-wit, June 28, 1904.

The name of Elizabeth Allen appears upon the schedule which was approved May 21, 1904, opposite the number 15551. Ida Crutchfield's name appears opposite No. 15553, while the other members of the Crutchfield family were given the numbers immediately following that assigned to her.

You are requested to cause a report to be prepared shewing whether the records of your office also show that an earlier schedule containing the names of said persons was approved May 21, 1904; also whether such approval was cancelled June 28, 1904. Please report also the reason for the attempted cancellation, and whether prior notice was given thereof.

It appears further that, in connection with the names of Elisabeth Allen and the Crutchfield family on the roll approved May 21, 1904, the names of Ardella Nickman, Ida M. Southard and Grover Randall are also to be found.

In connection with said names, it is desired that you will report what action, in your opinion, should be taken concerning the first of said persons; also whether the said Ida M. Southard and Grover Randall, respectively, are identical with the Ida M. Southard whose name appears opposite No. 15880 in the printed rolls of citizens by blood of the Choctaw Nation, and the Grover Randall whose name appears on page 8 of Departmental letter of January 19, 1909 (File 5-51), opposite No. 15928.

As appears from the above list, there were other persons besides the said Allen and Crutchfields whose names were enrolled on schedules which were finally disapproved by the Department: for example, George A. Bumgarner, Josephine Laflore Long and Jake Laflore Long.

Please report whether the names of these persons appear upon any prior approved schedule; also why it was that the Commissioner to the Five Civilized Tribes enrolled them upon the schedule which was disapproved by the Department, showing whether the Commissioner enrolled them thereon, of his own motion, or under decision or instructions from the Department.

By comparison of the roll approved May 21, 1904, with the printed rolls of Choctaws by blood, the Department

finds that the numbers appearing thereon opposite the names of said persons were subsequently assigned to other citizens of the Choctaw Nation; thereby the series of roll numbers was kept perfect, but a material portion of the rolls was evidently sacrificed upon the supposition that it had become worthless. Inquiry arises in this connection as to whether there were other approved schedules which were subsequently disapproved and thrown aside. Accordingly, it is desired that you also cause a report to be prepared covering this feature of the matter, showing all persons embraced in similar cases, with recommendation as to what action should be taken as to them. This will necessitate a statement as to why their names were stricken or cancelled from the rolls, and whether such action was taken without prior notice.

There is still another matter concerning which the Department desires report to be made. It is observed that the words "No person enrolled at this number" are to be found not infrequently opposite consecutive numbers on the pages of the printed rolls; and you are requested to advise the Department whether such words were substituted for the names of individuals appearing on disapproved schedules, and if such is the case, whether such disapproved schedules were approved at any time by the Department; also whether favorable decisions were ever rendered by the Department as to such persons prior to their enrollment upon such disapproved schedules.

For the sake of expedition, a partial report should be rendered at once concerning the said Elizabeth Allen and the various members of the Crutchfield family named above. The other matters referred to herein can be disposed of by subsequent reports.

Very respectfully,
Jesse H. Wilson,
Assistant Secretary.

Through the
Indian Office.

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17677-09

JPR

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON, D. C., Mar. 5, 09.

Respectfully referred to the Commissioner
to the Five Civilized Tribes, for
appropriate action.

John Frances, Jr.
Acting Chief Land Division.

1 letter dated Mar. 1, 09.

D 460-1909.

Wichita, Oklahoma, April 20, 1900.

Subject:

Requesting report relative
to petition of Wm. B. Brown,
et al. for enrollment as
citizens of the Choctaw
Nation.

The Honorable,

The Secretary of the Interior,

Sir:

Receipt is hereby acknowledged of Indian Office letter of April 9, 1900 (Lund 23070-1900) transmitting petition of Wm. B. Brown, et al. for enrollment as citizens of the Choctaw Nation. This office is also requested to report specially whether the names of any of the persons in this petition appeared upon any tribal rolls of the Choctaw Nation or upon any roll prepared by the Commission to the Five Civilized Tribes and approved by the Secretary of the Interior.

March 1, 1900, the Department also addressed a letter to this office requesting reports as to all persons whose names may have been upon disapproved schedules and at whose numbers in the printed rolls appears the notation "No person enrolled at this number."

Secretary 2

The case of William E. Brown is one of the cases referred to in Departmental letter of March 1, 1909 and the report is made to the Secretary of the Interior, through the Indian Office, with the view of complying with both requests.

I have the honorable report as follows, relative to the case of William E. Brown and the other members of his family who were included in the decision in the consolidated Chester case of William E. Brown, et al.:

It appears from the records of this office that on September 9, 1896, in the case entitled Nancy Cooper et al. versus the Chester Nation, 1896 Chester Citizenship Case Number 1418, original application was made to the Commission to the Five Civilized Tribes, under the provisions of the Act of Congress approved June 10, 1896 (29 Stat., 531), for admission to citizenship in the Chester Nation of the applicants, Nancy A. Brown (as Nancy Alice Brown), Nettie Mc Carthy (as Rebecca Elizabeth Brown), William H. Brown (as William Hiten Brown), Sarah Johnston (as Sarah Elizabeth Brown), Mary Brown (as Rebecca Catherine Brown), Mary Brown (as Mary Arvillie Brown), Marie (or Minnie) Handson (as Winnie Ann Brown), Alice Brown, George Brown (as George Montgomery Brown), Charles E. Brown, Maudie Brown (as Maudy E. Brown), Willie Brown (as William E. Brown,) Polly A. Peck (as Polly Ann Peck, Florence

Secretary 3

Peck (as Minnie V. Peck), Oscar Peck (as Oscar R. Peck), Benjamin Peck (as Benjamin C. Peck), Andrew Peck, George G. Brown, Willie Anna Brown, James R. Nichols (as James Bruton Nichols), Della May Scott (as Mary Della May Nichols), Nancy V. Nichols (as Fannie Volma Nichols), John W. B. Nichols (as John William Nathaniel Nichols), Orrin W. Nichols (as Orrin Mayberry Nichols), James V. Nichols (as James Willis Nichols), Maggie M. Nichols (as Maggie May Nichols), Nettie Myrtle Nichols, Lemie A. Nichols (as Lena Alta Nichols), as citizens by blood, and for the admission of William B. Brown, Nancy J. Brown (as Nancy Jane Brown), Amanda Brown, Andrew J. Peck (as A. J. Peck), Sarah Brown, Nancy C. Nichols (as Nancy Gertrude Nichols), and Amanda M. Nichols (as Amanda Melvin Nichols), as citizens by intermarriage of said nation; and that on December 6, 1894, said Commission rendered its decision denying the applications for citizenship of the above named persons.

From this decision of the Commission an appeal was taken to the United States Court for the Southern District of Indian Territory, which court on December 20, 1897, in the case entitled Nancy J. Cooper, et al. versus the Quetan Nation, Case Number 94 on the Citizenship Docket, admitted Nancy A. Brown (as Nancy Alice Brown), Bettie McCarty (as Bettie Brown), Sarah Johnston (as Sarah Brown), Becky Brown,

Secretary 4

Mary Brown, Mamie (or Minnie) Hudson (as Mamie Brown), Alice Brown, George Brown, Essie Brown, Caswell M. Brown (as Caswell Marion Brown), Kandis Brown, Willie Brown, Polly A. Peck (as Polly Ann Peck,) Florence Peck, Oscar Peck, Benjamin Peck (as Benjamin Grant Peck), Andrew Peck, George D. Brown, Willie Anna Brown, James E. Nichols (as James Waten Nichols,) Della May Scott (as Dell May Nichols), Nancy V. Nichols (as Nancy Velmer Nichols), Orin E. Nichols (as Orin Mayberry Nichols), James W. Nichols (as James Willis Nichols), Maggie W. Nichols (as Maggie May Nichols), Nettie Myrtle Nichols (as Myrtle Nichols), and Lemie A. Nichols (as Lemie Alta Nichols) as citizens by blood of the Choctaw Nation, and William E. Brown (as William Bluford Brown), Andrew J. Peck (as Andrew Jackson Peck) and Nancy Nichols (as Nancy Caroline Nichols) as citizens by intermarriage of said nation, and denied the applications for the admission of Nancy J. Brown (as Nancy Jane Brown), Sarah Brown and Amanda E. Nichols (as Amanda Melvina Nichols) as citizens by intermarriage of the Choctaw Nation.

The name of the applicant, Nell Brown, was intercalated in the judgment of said court, she not having been an applicant before the Commission to the Five Civilized Tribes in 1896.

March 16, 1898, this case again came before the United States Court upon a motion of the plaintiffs' attorneys to

Secretary 8

correct the judgment of said court rendered December 20, 1897, and the court thereupon ordered said judgment corrected so as to admit the applicants, Nancy J. Brown (as Nancy Jane Brown), Sarah Brown, Amanda Nichols (as Amanda Melvina Nichols) as citizens by intermarriage of the Choctaw Nation.

September 20, 1898, said court rendered a supplemental judgment admitting Amanda Brown as a citizen by intermarriage of the Choctaw Nation.

January 17, 1900, this cause again came before the court upon a motion of the defendant to strike out of the judgment theretofore rendered certain names improperly admitted to citizenship, and the court ordered that the names of Essie Brown, Andrew J. Peck (as Andrew Jackson Peck), Bettie McCarty (as Bettie Brown), and Becky Brown be stricken from said former judgment.

Subsequently, upon the representation of the plaintiffs' attorneys that certain persons who were original applicants were by oversight or mistake left out of the original judgment theretofore rendered, the court ordered that the applicants, Nancy J. Brown (as Nancy Jane Brown), Sarah Brown, Amanda Brown, Amanda W. Nichols and Rebecca L. Brown be admitted to citizenship in the Choctaw Nation.

December 17, 1902, the Choctaw and Chickasaw Citizenship

Secretary 6

Court, created under the provisions of the Act of Congress approved July 1, 1902 (32 Stat., 641), "set aside, annulled, vacated and held for naught" the aforesaid judgment of the United States Court for the Southern District of the Indian Territory.

The record in this case was subsequently certified to the Choctaw and Chickasaw Citizenship Court for a trial *de novo*, which court, November 23, 1904, in the case entitled William Weighton Brown, et al. versus the Choctaw and Chickasaw Nations, Number 73 on the Tishomingo Docket, ordered, adjudged and decreed that the petition of the plaintiffs be denied and that they be declared not citizens of the Choctaw Nation, and not entitled to enrollment as such citizens, and not entitled to any rights whatever flowing therefrom.

December 12, 1904, orders were entered of record by the Commission to the Five Civilized Tribes dismissing the applications for the enrollment of Mary E. McDarty, William Herman Johnston, Minnie Gertrude Brown, Henry Niten Brown, Robert Knightington Brown, Otis Dewey Peck, Virgie Peck, Louis Herman Nichols and Golda Ula Nichols as citizens by blood of the Choctaw Nation and March 18, 1905, an order was entered of record dismissing the application for the enrollment of Fannie C. Brown as a citizen by blood of said nation.

Secretary 7

for the reason that the parents of these children had been denied by a decree of the Choctaw and Chickasaw Citizenship Court.

December 12, 1904, orders were entered of record by the Commission dismissing the applications for the enrollment of Eli W. Brown, Bessie Nichols and Osa Nichols as citizens by intermarriage of the Choctaw Nation for the reason that the persons through whom they claimed their rights had been denied by a decree of the Choctaw and Chickasaw Citizenship Court.

March 30, 1905, the Commission to the Five Civilized Tribes denied the application for the enrollment of Bessie Brown as a citizen by blood of the Choctaw Nation, and on April 6, 1906 (I T D 3810-1906) the Department set aside this decision of the Commission and returned the record to this office for investigation upon its merits.

Under the regulations adopted by the Commissioner to the Five Civilized Tribes of January 7, 1906, there were filed on February 6, 1906, by Grace, Grace & Bleckners, attorneys for the petitioners, Ardmore, Indian Territory, petitions praying that William B. Brown, Nancy A. Brown, Minnie Hudson, Sarah Johnston, Oscar Lee Johnston, William Ernest Johnston, Rebecca Brown, Minnie Gertrude Brown, Henry

Secretary 2

Elton Brown, Rubie Dill Brown, Eli W. Brown, Mary A. Johnston,
Roy Lester Johnston, Edna A. Johnston, Rebecca McCarty,
William A. McCarty, Mary E. McCarty, William E. Brown, Harry
Jane Brown, George Brown, Alice Brown, Susie Brown, Cletus
Brown, Clarence Brown, A. J. Peck, Felly Ann Peck, Winnie
Peck, Oscar Sherman Peck, Benjamin Grant Peck, Andrew Peck,
O. D. Peck, Virgie Peck, Prebble Peck, C. M. Brown, Ananias
Brown, Mandy Brown, William Brown, Elbert K. Brown, Annie
Jaye Brown, George O. Brown, Sarah Brown, Willie Emma Brown,
Cassie Brown, Goldie Brown, J. E. Nichols, Harry Nichols,
Helma Nichols, John W. E. Nichols, Russle Deaton Nichols,
Louie Herman Nichols, Gerda Rula Nichols, Silva Jewel Nichols,
Della May Scott, Fann Scott, Orin K. Nichols, Ananda Nichols,
Kyrt Nichols, Louis Nichols, James V. Nichols, Osa Nichols,
Cora Lee Nichols and Maggie Angel be enrolled as citizens of
the Choctaw Nation.

April 16, 1906, the principal petitioners, their attor-
neys of record and the attorneys for the Choctaw and Chicka-
saw Nations, were advised that a hearing would be had in this
matter at the office of the Commissioner to the Five Civil-
ized Tribes, Muskogee, Indian Territory, Monday, May 14, 1906,
at nine o'clock A. M. and on the same date, William E. Brown,
father of Elton Brown, Grace, Grace A. Blackmore, and Hana-

Secretary 9

field, McKurray & Carnick, were advised that on April 6, 1906, the Department had set aside the decision of the Commission to the Five Civilized Tribes of March 30, 1906, and returned the record with instructions that a full investigation be made of the rights of the said Susie Brown to enrollment as a citizen by blood of the Choctaw Nation, and that such testimony and evidence would be received at the date of the hearing on the petition.

On Motion of attorneys for applicants the hearing was continued until May 21, 1906, on which date proceedings were had in the matter of said petition in pursuance to the notices above mentioned.

At the hearing William E. Brown, Cassell M. Brown, James W. Nichols and Orin M. Nichols testified that in 1894, they, together with the other applicants herein who were living at that time, petitioned the Choctaw Council for admission as citizens of the Choctaw Nation; that no action having been taken by the Council as to their case they, in 1898, appeared before the Choctaw Census Commission and made application to be enrolled upon the 1898 Choctaw Census Roll; that some time in January, 1897, they received a certificate from the Secretary of the Choctaw Advisory Board, wherein it appeared that they had been enrolled upon the 1898 Choctaw Census Roll.

Secretary 10

It appears that the applicants, William E. Brown, William H. Brown, Nancy J. Brown, Cassell M. Brown, Amanda Brown, Polly Ann Peck, Andrew J. Peck, George G. Brown, Sarah Brown, Nancy A. Brown, Bettie McCarty, Sarah Johnston, Becky Brown, Mary Johnston, Maudie (or Minnie) Hudson, Alice Brown, George Brown, Maie Brown, Maudie Brown, Willie Brown, Florence Peck, Oscar Peck, Benjamin Peck, Andrew Peck, James B. Nichols, Nancy C. Nichols, Orin M. Nichols, Amanda M. Nichols, John W. B. Nichols, Ella May Scott, Nancy V. Nichols, James V. Nichols, Maggie M. Nichols, Mattie Myrtle Nichols and Lonie A. Nichols are identified upon the 1898 Census Roll of the Choctaw Nation, LeFlore County.

August 13, 1906, the Commission to the Five Civilized Tribes rendered a decision, in accordance with the opinion of the Assistant Attorney General for the Department of the Interior of February 10, 1906 (I T D 10353-1906) and December 5, 1906 (I T D 3493-1906) in the case of Lula West, holding that the action of the Commission to the Five Civilized Tribes and the subsequent action of the United States Court for the Southern District of Indian Territory and the Choctaw and Chickasaw Citizenship Court upon the right of the applicants who applied to said Commission in 1896, with the exception of Andrew J. Peck, was without authority of law.

Secretary 11

and of no force and effect upon the status of said applicants as citizens of the Choctaw Nation.

We also rescinded the orders of the Commissioner to the Five Civilized Tribes of December 2, 1904, and March 10, 1905, dismissing the applications for the enrollment of Mary E. McGarty, William Erman Johnston, Minnie Gertrude Brown, Fannie T. Brown, Henry Niten Brown, Albert Knightington Brown, Otis Dewey Peck, Virgie Peck, Louis Herman Nichols and Golda Wila Nichols as citizens by blood of the Choctaw Nation and Eli W. Brown, Bessie Nichols and Osa Nichols as citizens by intermarriage of the Choctaw Nation.

The Commissioner to the Five Civilized Tribes further held, in accordance with the opinions of the Assistant Attorney General for the Department of the Interior of March 3, 1905 (I T D 187-1905) and March 10, 1905 (I T D 999-1905) that Nancy A. Brown, Nettie McGarty, Mary Ethel McGarty,

William H. Brown, Sarah Johnston, Bucky Brown, Mary Johnston, Maudie (or Minnie) Hudson, Alice Brown, George Brown, Maie Brown, William Erman Johnston, Minnie Gertrude Brown, Henry Niten Brown, Fannie T. Brown, Cassell M. Brown, Maudie Brown, Willie Brown, Albert Knightington Brown, Felly A. Peck, Florence Peck, Oscar Peck, Benjamin Peck, Andrew Peck, Otis Dewey

Secretary E

Peck, Ergie Peck, George G. Brown, Willie Emma Brown, James E. Nichols, Della May Scott, Harvey V. Nichols, John W. B. Nichols, Louis Herman Nichols, Golda Ula Nichols, Orin K. Nichols, James W. Nichols, Maggie K. Nichols, Nettie Myrtle Nichols and Louis A. Nichols should be enrolled as citizens by blood and William F. Brown, Nancy Brown, Eli W. Brown, Amanda Brown, Sarah Brown, Nancy G. Nichols, Beasis Nichols, Amanda V. Nichols and Osa Nichols as citizens by intermarriage of the Cherokee Nation under the provisions of the Acts of Congress approved June 28, 1898 (30 Stat., 495) and July 1, 1907 (34 Stat., 421).

The applications for the enrollment of William A. McCarty, Ollie McCarty, Oscar Lee Johnston, Willie Clarence Brown, Roy Lester Johnston, Edna Arvel Johnston, Teddy Golden Johnston, Rubie Bill Brown, Annie Jewell Brown, Prebble Peck, Cassie Brown, Goldie Brown, Wema May Scott, Lita Lois Scott, Edwice Jewel Nichols and Cora Lee Nichols were also granted under the provisions of the Act of Congress approved April 8, 1906 (34 Stat., 137).

The application for the enrollment of Andrew J. Peck as a citizen by intermarriage was denied and the application for the enrollment of Daphne Myrtle Nichols as a citizen by blood of the Cherokee Nation was dismissed.

Secretary 13

August 14, 1906, the record in this case, together with the decision of August 13, 1906, was transmitted to the Department.

February 7, 1907, there were transmitted to the Secretary of the Interior schedules of citizens by blood and marriage of the Choctaw Nation containing the names of the persons who were favorably passed upon by the Commissioner to the Five Civilized Tribes August 13, 1904, in the Choctaw enrollment case of William B. Brown, et al., as follows:

Citizens by blood	No. 16181 to 16189, inclusive
Citizens by marriage	No. 1637 to 1643, inclusive
Minor citizens by blood	No. 857 to 872, inclusive

This case was analogous to the case of Mattie Stockley, et al. (Laula West case) in which this office had been directed to suspend action until the Attorney General had passed upon the questions involved in that case, but inasmuch as the time within which persons could be enrolled and their enrollment approved by the Secretary of the Interior under the provisions of the Act of Congress approved April 26, 1904, was becoming very short, the schedules above described were prepared by this office without waiting for the opinion of the Attorney General and were forwarded to the Department in order that, if the opinion of the Attorney General were favorable, the rights of these applicants might be protected without

Secretary: 4

delay, and this office requested, in the event of such favorable opinion of the Attorney General, that these schedules be approved by the Secretary of the Interior.

February 16, 1907, referring to Departmental letter of February 23, 1907 (I. T. D. 4364-1907) requesting this office to forward a list of those persons whose enrollment should be cancelled in view of the opinion of the Attorney General of February 19, 1907, in the Choctaw enrollment cases of Louis West and William C. Thompson, the Commissioner to the Five Civilized Tribes called the attention of the Department to the schedules above described which were forwarded February 7, 1907, and advised that this case was analogous to the case of Louis West. It was, therefore, recommended that the decision of August 13, 1906, be not approved by the Department and that the schedules transmitted with office letter of February 7, 1907, be disapproved by the Secretary of the Interior.

February 26, 1907 (Land 71862-1906, 2220, 14412-1907)
the Indian Office forwarded to the Department the record in the case of William B. Brown, et al. together with the schedules transmitted February 7, 1907, and recommended, in view of the opinion of the Attorney General of February 19, 1907, of that the decision of the Commissioner of August 13, 1906, in

Secretary 18

so far as it was favorable to the applicants, be reversed and the schedule disapproved, which was done by the Department March 1, 1907 (I T D 5742-1907).

This office has no record of any favorable decision of the Department as to the persons included in this consolidated case.

No formal allotments were made to the persons included in this case but applications were made on their behalf for certain lands which were involved in Quickdraw contest cases. Subsequent to March 4, 1907, these contests were dismissed and on August 31, 1907, a motion to reinstate said contests was denied.

August 27, 1907, the Department advised this office that by letter of August 3, 1907, counsel for the claimants in the case of William E. Brown, et al. requested that the order of the Department of June 14, 1907, in the case of William C. Thompson and others, suspending action on claims to allotments of lands be made applicable to them.

September 20, 1907, this office reported that it did not appear that the claimants in the case of William E. Brown, et al. possessed the same status as the claimants in the case of William C. Thompson, et al. as their names had never been upon an approved roll, but that it appeared they occupied

Secretary 16

the same status as the persons included in the case of John W. Gamblin and the case of Angus A. Spring.

October 12, 1907 (I T 77803-1907) the Indian Office held that the action of the Commissioner to the Five Civilized Tribes in dismissing the contests on behalf of these claimants, and in refusing to reinstate the same, was proper and recommended that he be advised that all applications for allotments on behalf of these persons should be denied and this recommendation was approved by the Department October 14, 1907.

Following these instructions of the Department the lands in contest were awarded to the contestees, and patents therefor were recorded and delivered to them. It is believed, therefore, that these persons, in the event of a favorable decision relative to their enrollment, could not recover the land referred to, and if they are holding or claiming other land this office has no record of such claim.

If they are now in possession of other lands in the Choctaw and Chickasaw Nations, this office will, however, upon the receipt of descriptions thereof, make a record of their claim to the land, pending further action by the Department.

I have further to report that the record in this case is full and complete and it is believed the applicants could

Secretary 17

add nothing material thereto at this time, and that it would work an unjustifiable hardship upon them to notify them now to appear and give further testimony in this case and force upon them the expense of a hearing at this office.

I have not, therefore, forwarded the notices referred to in Departmental letter of March 18, 1909 and Indian Office letter of April 9, 1909, but will await specific instructions from the Department as to its wishes in the matter in accordance with my request of April 14, 1909, in the Mattie Sheddley case.

If it is the desire of the Department that notices be forwarded in this case, however, this office will proceed to notify the applicants thereof immediately upon receipt of advice from the Department and will make supplemental report after their replies have been received.

The petition inclosed with Indian Office letter of April 9, 1909, is herewith returned.

Respectfully,

Commissioner.

Through the Commissioner
of Indian Affairs,

AB

1-12903

Land
31790-1909
J.E.D

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS
Washington.

Jun 25, 1909

Enrollment case of
Wm. B. Brown et al.

The Commissioner

to the Five Civilized Tribes,
Muskogee, Oklahoma.

Sir:

Referring to your report of April 20, 1909, relative to the consolidated Choctaw enrollment case of William B. Brown et al., you are advised, that on June 15, 1909, the Department held that the case mentioned was not analogous to that of John E. Goldsby, and did not come within the principles announced by the Supreme Court of the United States in that case, (211 U. S. 249). The Department, therefore declined to take any action looking to the enrollment of any of the applicants in the consolidated case of William B. Brown et al.

A copy of approved Office letter of May 17, 1909, is inclosed for your further information.

You are requested to notify the parties in interest.

Very respectfully,

J. H. Dertsch,
Acting Chief Clerk,

MRH-19
2539.

D-7339

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington.

Land
31790-1909
J E D

G.M.
J.W.
J.V. Jr.
W.R.L.

Enrollment case of
Wm. B. Brown et al.

May 17, 1909

The Honorable, .

The Secretary of the Interior.

Sir:

Referring to Department letter of March 1, 1909, there is transmitted herewith a report dated April 20, 1909, from the Commissioner to the Five Civilized Tribes, relative to the enrollment case of William B. Brown et al. The history of the claim is set out fully in the reports enclosed.

The record shows, among other things, that on August 13, 1906, the Commissioner to the Five Civilized Tribes rendered a decision that Nancy A. Brown, Bettie McCarty, Mary Ethel McCarty, William B. Brown, Sarah Johnston, Becky Brown, Mary Johnston, Mamie (or Minnie) Hudson, Alice Brown, George Brown, Susie Brown, William Brown Johnston, Minnie Gertrude Brown, Henry Witen Brown, Fannie C. Brown, Caswell M. Brown, Maudie Brown, Willie Brown, Elbert Knightington Brown, Polly A. Peck, Florence Peck, Oscar Peck, Benjamin Peck, Andrew Peck, Otis Dewey Peck, Virgie Peck, George O. Brown, Willie Anna Brown, James B. Nichols, Della May Scott, Nancy V. Nichols, John W.

L-31790-2

B. Nichols, Louis Herman Nichols, Golda Wia Nichols, Orin M. Nichols, James W. Nichols, Maggie M. Nichols, Nettie Myrtle Nichols and Lonie A. Nichols should be enrolled as citizens by blood and William B. Brown, Nancy Brown, Eli W. Brown, Amanda Brown, Sarah Brown, Nancy C. Nichols, Beanie Nichols, Amanda Y. Nichols and Osa Nichols as citizens by intermarriage of the Chectaw Nation under the provisions of the Acts of Congress approved June 28, 1898 (30 Stat. L. 495) and July 1, 1902 (32 Stat., L. 441).

The applications for the enrollment of William A. McCarty, Ollie McCarty, Oscar Lee Johnston, Willie Clarence Brown, Roy Lester Johnston, Edna Arvel Johnston, Teddy Golden Johnston, Rubie Bill Brown, Annie Jewell Brown, Prebble Peck, Cassie Brown, Goldie Brown, Nana May Scott, Lita Lois Scott, Sylvie Jewel Nichols and Cera Lee Nichols were also granted under the provisions of the Act of Congress approved April 26, 1906 (34 Stat. L. 137).

The application for the enrollment of Andrew J. Peck as a citizen by intermarriage was denied and the application for the enrollment of Daphne Myrtle Nichols as a citizen by blood of the Chectaw Nation was dismissed.

It appears that on August 14, 1906, the record in the case, together with the decision, was forwarded by the Com-

Commissioner to the Five Civilized Tribes, and that on February 7, 1907, he transmitted to the Department schedules of citizens of the Chectaw Nation by blood and by marriage, containing the names of persons who were favorably passed upon by him in his decision of August 13, 1906, in this case. It appears also that on February 26, 1907, the Commissioner, referring to Department letter of February 23, 1907, invited the Department's attention to the above-mentioned schedules, and to the Chectaw enrollment case of William B. Brown, et al., and recommended, in view of the opinion of the Attorney General dated February 19, 1907, in the Loula West and other cases, that his decision of August 13, 1906, be not approved, and that the schedules referred to be disapproved.

On March 1, 1907, the Department reversed the decision of the Commissioner so far as it was favorable to the applicants, and disapproved the schedules containing their names.

The Commissioner to the Five Civilized Tribes reports further that his office has no record of any favorable decision of the Department as to the persons included in this case.

It appears also that their names have never been placed upon any roll or schedule of citizens of the Chectaw Nation prepared by the Commissioner to the Five Civilized Tribes and approved by the Department.

L-21790-4

The Office concurs in the view of the Commissioner to the Five Civilized Tribes that as the record in the case is a complete one, the applicants could add nothing material thereto at this time, and to have them appear at his office to give further testimony would only make additional expense for them and work a hardship without any benefits accruing therefrom.

On April 9, 1909, the Office requested the Commissioner to the Five Civilized Tribes to take no steps pending the preparation of his report concerning the enrollment case of William B. Brown, et al toward the issuance of a patent to any adverse party in interest to the lands occupied by the applicants in the above mentioned case. The Commissioner was also requested to instruct the United States Indian Agent, at Union Agency, to suspend action, if any was contemplated, toward dispossessing the applicants of the lands occupied by them until further advised by the Department.

The Commissioner reports that no formal allotments were made to the persons included in the above case, but that applications were made in their behalf for certain lands which were involved in Chickasaw contest cases. The contests in behalf of these claimants were dismissed by the Commissioner to the Five Civilized Tribes, and on October 12, 1907, the Office held that the action of the Commissioner was proper, and recommended that he be advised that all applications for

allotments in behalf of these persons should be denied.

This recommendation was approved by the Department on October 14, 1907. It appears from the report of the Commissioner to the Five Civilized Tribes that the lands in contest were awarded to the contestees and patents therefor were recorded and delivered to them. Title having passed to the contestees, the Department is now without authority to place or permit the applicants in the William B. Brown case to remain in possession of the lands covered by the patents issued to the contestees, even in the event of the Department rendering a favorable decision relative to their enrollment.

The Commissioner reports that his office has no record of the applicants in the case mentioned holding or claiming possession of any other lands in the Choctaw or Chickasaw Nations, but says that if they are in occupancy of such other lands his office will, upon receipt of a description thereof, make a record of the claims pending further action by the Department.

The Office is of the opinion that the case of William B. Brown, et al., is not analogous to that of John E. Goldsby, and that it does not come within the principles announced by the Supreme Court of the United States in its decision of November 30, 1906, in that case (211 U. S. 249.)

L-31780-4

It is therefore recommended that the Department take no action looking to the enrollment of any of the applicants included in the consolidated case of William B. Brown, et al.

The record in the case, and other papers pertaining thereto, are transmitted herewith for your further information.

Very respectfully,

H. B. Valentine,

Acting Commissioner.

RRS 11

891

WCF June 12, 1909 JWH

Approved

Frank Pierce,

First Assistant Secretary. FVC

Muskogee, Oklahoma, June 28, 1909.

Mr. Eli W. Brown,

Comanche, Oklahoma.

Sir:

You are hereby notified that on June 15, 1909, the Secretary of the Interior held that the Choctaw enrollment case of William B. Brown et al., which which the case of your wife Becky Brown was consolidated, was not analogous to that of John E. Goldsby (211 U. S. 249) and declined to take any action looking to the enrollment of the applicants therein under the opinion of the Supreme Court of the United States of November 30, 1908, in said Goldsby case.

Respectfully,

WHA-KS.

Commissioner.

MEMORANDA.

(Date) Sept 5 1899.

78 Name Et. M. Brown

Choctaw? yes County _____ Year _____ No. _____

Chickasaw? _____ County _____ Year _____ Page _____

Citizen by blood? _____ Mother's citizenship yes

Intermarried citizen? yes

Married under what law? Chick

License filed this day, yes

Wife's name, _____

Choctaw? _____ County _____ Year _____ No. _____

Chickasaw? _____ County _____ Year _____ Page _____

Citizen by blood? _____ Mother's citizenship _____

Intermarried citizen? _____

Married under what law? _____

License filed this day _____

Names of children:

County _____ Year _____ Page _____ No. _____

County _____ Year _____ Page _____ No. _____

County _____ Year _____ Page _____ No. _____

County _____ Year _____ Page _____ No. _____

County _____ Year _____ Page _____ No. _____

County _____ Year _____ Page _____ No. _____

County _____ Year _____ Page _____ No. _____

County _____ Year _____ Page _____ No. _____

County _____ Year _____ Page _____ No. _____

County _____ Year _____ Page _____ No. _____

As to remarriage see the following
Wife, Beckey Brown, admitted by US
at Ardmore

II-437

Choctaw 6020
Mary Johnston

6020

Aug. 3, 1906 granted 3-1-07 Decision of
Commissioner reversed by Dept and
Schedule containing names of These
applicants disapproved

Trans. from Choc card 5060 See C-47
Duplicate record bound

6-29-09 Parties notified

O.L.J.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of
William B. Brown, et al., as citizens of the Choctaw Nation, con-
solidating the applications of

William B. Brown, et al.	7-5096,
William H. Brown, et al.	7-5040,
Eli W. Brown, et al.	7-D-432,
Caswell M. Brown, et al.	7-5046
Andrew J. Peek, et al.	7-5062
George G. Brown, et al.	7-5098
James B. Nichols, et al.	7-5100,
John W. B. Nichols, et al.	7-5097,
Orin M. Nichols, et al.	7-5061,
Esa Nichols, et al.	7-D-509.

D E C I S I O N.

It appears from the census card records in this case that on September 22, 1898, application was made to the Commission to the Five Civilized Tribes for the enrollment of William B. Brown (sixty-two years of age), as a citizen by intermarriage of the Choctaw Nation, and for the enrollment of his two children, Nancy A. Brown (twenty-three years of age) and Bettie Brown, now McCarty (nineteen years of age), as citizens by blood of the said nation; on September 22, 1898,, for the enrollment of William H. Brown (thirty-nine years of age), and his seven minor children, Sarah Brown, now Johnston (eighteen years of age), Becky Brown (sixteen years of age), Mary Brown, now Johnston (thirteen years of age), Mamie (or Minnie)

Brown, now Hudson (eleven years of age), Alice Brown (eight years of age), George Brown (five years of age) and Essie Brown (one year of age), as citizens by blood of the Choctaw Nation; and for the enrollment of Nancy Brown (thirty-six years of age) as a citizen by intermarriage of said nation; on September 5, 1899, for the enrollment of Eli W. Brown (twenty-eight years of age) as a citizen by intermarriage of the Choctaw Nation; on September 22, 1898, for the enrollment of Gaswell M. Brown (thirty-four years of age), and his two minor children, Maudie (ten years of age) and Willie Brown (six years of age), as citizens by blood of the Choctaw Nation, and on October 18, 1898, for the enrollment of his wife, Amanda Brown (thirty-one years of age), as a citizen by intermarriage of said nation; on September 22, 1898, for the enrollment of Andrew J. Peck (thirty-two years of age) as a citizen by intermarriage of the Choctaw Nation, and for the enrollment of his wife, Felly A. Peck (thirty years of age), and his five minor children, Florence (nine years of age), Oscar (seven years of age), Benjamin G. (five years of age), Andrew (three years of age), and Otis Dewey Peck (two months of age), as citizens by blood of said nation; on September 22, 1898, for the enrollment of George G. Brown (twenty-six years of age), and his minor daughter, Willie Emma Brown (three years of age), as citizens by blood of the Choctaw Nation, and for the enrollment of his wife, Sarah Brown (twenty-one years of age), as a citizen by intermarriage of said nation; on September 22, 1898, for the enrollment of James B. Nichols (forty-eight years of age), and his two minor children, Della May Nichols, now Scott (fourteen years of age), and Nancy V. Nichols (seven years of age), as citizens by blood of the Choctaw Nation, and for the enrollment of his wife, Nancy G. Nichols, (forty-two years of age), as a

citizens by intermarriage of said nation; on September 22, 1898, for the enrollment of John W. B. Nichols (twenty-four years of age) as a citizen by blood of the Choctaw Nation, and for the enrollment of his wife, Bessie Nichols (eighteen years of age), as a citizen by intermarriage of said nation; on September 22, 1898, for the enrollment of Orin M. Nichols (forty-four years of age), and his four minor children, James W. (eighteen years of age), Maggie M. (twelve years of age), Mattie Myrtle (eight years of age), and Louie A. Nichols (four years of age), as citizens by blood of the Choctaw Nation, and for the enrollment of his wife, Amanda M. Nichols (thirty-eight years of age), as a citizen by intermarriage of said nation; and on September 25, 1899, for the enrollment of Osa Nichols (seventeen years of age) as a citizen by intermarriage of the Choctaw nation.

Applications were subsequently made for the enrollment of the following minor applicants as citizens by blood of the Choctaw Nation: On January 20, 1902, for the enrollment of Mary Ethel McCarty (born December 8, 1901); on May 31, 1903, for the enrollment of William A. McCarty (born April 21, 1904) and Ollie McCarty (born February 14, 1906); on October 13, 1900, for the enrollment of William Erman Johnston (born June 30, 1900); on October 19, 1900, for the enrollment of Minnie Gertrude Brown (born August 13, 1900); on May 16, 1901, for the enrollment of Fannie C. Brown (born February 11, 1901); on April 29, 1903, for the enrollment of Oscar Lee Johnston (born November 14, 1903); on April 29, 1903, for the enrollment of Willie Clarence Brown (born April 8, 1903); on July 12, 1902, for the enrollment

Henry Niten Brown, (born May 21, 1902); on April 29, 1906, for the enrollment of Ray Lester Johnston (born October 28, 1905); on May 21, 1906, for the enrollment of Rena Arvel Johnston (born March 21, 1906); on April 14, 1906, for the enrollment of Rubie Bill Brown (born February 12, 1904); in 1899, for the enrollment of Elbert Knightington Brown (born October 8, 1899); on April 7, 1906, for the enrollment of Annie Jewell Brown (born December 2, 1902); on December 10, 1901, for the enrollment of Birgie Peck (born October 11, 1901); on April 8, 1906, for the enrollment of Prebble Peck (born February 19, 1904); on May 21, 1906, for the enrollment of Cassie Brown (born May 30, 1900) and Goldie Brown (born September 5, 1904); on April 17, 1906, for the enrollment of Rena May Seatt (born May 15, 1903) and Lita Lois Seatt (born February 1, 1906); on September 1, 1900, for the enrollment of Louis Herman Nichols (born August 19, 1900); on December 27, 1901, for the enrollment of Golda Ula Nichols (born September 15, 1901); on April 1, 1906, for the enrollment of Sylvie Jewel Nichols (born August 28, 1903); on April 14, 1906, for the enrollment of Gera Lee Nichols (born November 6, 1902); on April 6, 1901, for the enrollment of Daphne Myrtle Nichols (born February 20, 1901); and on May 21, 1906, for the enrollment of Teddy Golden Johnston (born June 15, 1905).

It appears from the records of the Commission to the Five Civilized Tribes that on September 9, 1896, in the case entitled "Nancy Cooper, et al. vs. Cheetaw Nation" (1896 Cheetaw Citizenship Becket, Case No. 1418), original application was made to said Commission, under the provisions of the Act of Congress approved June 10, 1896 (29 Stat., 321), for admission to

citizenship in the Chectaw Nation of the applicants, Nancy A. Brown (as Nancy Alice Brown), Bettie McCarty (as Rebecca Elizabeth Brown), William E. Brown (as William Hiten Brown), Sarah Johnston (as Sarah Elizabeth Brown), Becky Brown (as Rebecca Catherine Brown), Mary Brown (as Mary Arrillie Brown), Mamie (or Minnie) Hudson (as Minnie Ann Brown), Alice Brown, George Brown (as George Montgomery Brown), Caswell M. Brown, Hattie Brown (as Hattie E. Brown), Willie Brown (as William G. Brown), Polly A. Peck (as Polly Ann Peck), Florence Peck (as Minnie F. Peck), Oscar Peck (as Oscar B. Peck), Benjamin Peck (as Benjamin G. Peck), Andrew Peck, George G. Brown, Willis Emma Brown, James B. Nichols (as James Bruton Nichols), Della May Scott (as Mary Della May Nichols), Nancy V. (Nannie Velma Nichols), John W. B. Nichols (as John William Bethuel Nichols), Orrin M. Nichols (as Orrin Mayberry Nichols), James V. Nichols (as James Willis Nichols), Maggie M. Nichols (as Maggie May Nichols), Mattie Myrtle Nichols, Louie A. Nichols (as Lena Alta Nichols), as citizens by blood of said nation, and for the admission of William E. Brown, Nancy J. Brown (as Nancy Jane Brown), Amanda Brown, Andrew J. Peck (as A. J. Peck), Sarah Brown, Nancy G. Nichols (as Nancy Caroline Nichols), and Amanda M. Nichols (as Amanda Melvina Nichols), as citizens by intermarriage of said nation; and that on December 8, 1896, said Commission rendered its decision therein, denying the application of the above named applicants for enrollment as citizens of the Chectaw Nation.

From the decision of said Commission an appeal was taken to the United States Court for the Southern District of Indian Territory, which court on December 27, 1897, in the case

entitled "Nancy J. Cooper, et al. vs. Choctaw Nation" (Southern District Citizenship Case No. 98), admitted Nancy A. Brown (as Nancy Alice Brown), Bettie McGarty (as Bettie Brown), Sarah Johnson (as Sarah Brown), Becky Brown, Mary Brown, Mamie (or Minnie) Hudson (as Mamie Brown), Alice Brown, George Brown, Susie Brown, Caswell M. Brown (as Caswell Marion Brown), Maudie Brown, Willie Brown, Polly A. Peek (as Polly Ann Peek), Florence Peek, Oscar Peek, Benjamin Peek (as Benjamin Grant Peek), Andrew Peek, George G. Brown, Willie Numa Brown, James B. Nichols (as James Bruton Nichols), Della May Scott (as Dell May Nichols), Nancy E. Nichols (as Nancy Velmor Nichols), Orin M. Nichols (as Orin Mayberry Nichols), James W. Nichols (as James Willis Nichols), Maggie M. Nichols (as Maggie May Nichols), Mattie Myrtle Nichols (as Myrtle Nichols), and Lonie A. Nichols (as Lonie Alta Nichols), as citizens by blood of the Choctaw Nation, and William B. Brown (as William Bluford Brown), Andrew J. Peek (as Andrew Jackson Peek), and Nancy G. Nichols (as Nancy Caroline Nichols), as citizens by intermarriage of said nation, and denied the applications for the admission of Nancy J. Brown (as Nancy Jane Brown), Sarah Brown, and Amanda M. Nichols (as Amanda Melvina Nichols), as citizens by intermarriage of the Choctaw Nation. The name of the applicant, Susie Brown, was interpolated in the judgment of said court, she not having been an applicant before the Commission to the Five Civilized Tribes in 1896.

On March 18, 1898, said case again came before said court upon a motion of the plaintiff's attorneys to correct the judgment of said court rendered December 20, 1897, and the court, thereupon, ordered said judgment corrected so as to admit the

applicants, Nancy J. Brown (as Nancy Jane Brown), Sarah Brown, Amanda M. Nichols (as Amanda Melvina Nichols), as citizens by intermarriage of the Choctaw Nation.

On September 26, 1898, said court rendered a supplemental judgment admitting Amanda Brown as a citizen by intermarriage of the Choctaw Nation.

On January 17, 1900, this cause again came before said court upon a motion of the defendant to strike out of the judgment theretofore rendered, certain names improperly admitted to citizenship, and said court being fully advised, ordered that the following names, Susie Brown, Andrew J. Peck as (Andrew Jackson Peck), Bettie McCarty (as Bettie Brown), and Becky Brown, be stricken from said former judgment.

Subsequently, upon the representation of the plaintiffs' attorneys that certain persons who were original applicants were by oversight or mistake left out of the original judgment theretofore rendered, the court ordered that the applicants, Nancy J. Brown (as Nancy Jane Brown), Sarah Brown, Amanda Brown, Amanda M. Nichols and Rebecca E. Brown be admitted to citizenship in the Choctaw Nation.

It further appears from the records of said Commission that on December 17, 1902, the Choctaw and Chickasaw Citizenship Court, created under the provisions of the Act of Congress approved July 1, 1902 (32 Stats., 641), "set aside, annulled, vacated and held for naught" the aforesaid judgment of the United States Court for the Southern District of Indian Territory.

Thereafter, the record in the above case was certified to the Choctaw and Chickasaw Citizenship Court, for a trial de novo which court, on November 29, 1904, in the case entitled, "William

Neighton Brown, et al. vs. Choctaw and Chickasaw Nations" (Choctaw Chickasaw Citizenship Court Case No. 73, Tishomingo Docket), "ordered, adjudged and decreed that the petition of the plaintiffs, William Neighton Brown (or William Neighton Brown), Cassell Marion Brown, Polly Ann Peck (nee Brown), George E. Brown (or George G. Brown), Nancy Ellis Brown (or Nancy Alice Brown), Sarah Brown, Mary Brown, Menie Brown (or Manie Brown), Alice Brown, George Brown, Mendie Brown (or Mandie Brown), Willie Brown, Florence Peck, Oscar Peck, Benjamin Grant Peck, Andrew Peck, William Bush Brown (or Willie Bush Brown), James Burton Nichols, (or James Bruton Nichols), Oney Mayberry Nichols (or Orin Mayberry Nichols), John William Baffle Nichols, Della May Nichols, Nancy Velmer Nichols, James Willis Nichols, Maggie May Nichols, Myrtle Nichols, Lonie Alta Nichols, William Buford Brown, Nancy Caroline Nichols, Rebecca E. Brown (or Recky Brown), Rebecca C. Brown (or Rebecca Brown), Amanda Melvina Nichols, Amanda Brown, Nancy J. Brown (or Nancy Jane Brown), Sarah Brown, be denied, and that they be declared not citizens of the Choctaw Nation, and not entitled to enrollment as such citizens, and not entitled to any rights whatever flowing therefrom."

On December 12, 1904, orders were entered of record by the Commission to the Five Civilized Tribes dismissing the applications for the enrollment of Mary E. McCarty, William Herman Johnston, Minnie Gertrude Brown, Henry Nitem Brown, Elbert Knightington Brown, Otis Dewey Peck, Virgie Peck, Louis Herman Nichols and Golda Ula Nichols as citizens by blood of the Choctaw Nation, and on March 10, 1905, an order was entered of record dismissing the application for the enrollment of Fannie C. Brown as a citizen by

blood of said nation. All of said applicants were dismissed for the reason that their parents through whom they claim their rights to enrollment as citizens by blood of the Choctaw Nation, had been denied by a decree of the Choctaw and Chickasaw Citizenship Court.

On December 12, 1904, orders were entered of record by the Commission to the Five Civilized Tribes dismissing the applications for the enrollment of Eli W. Brown, Bessie Nichols and Osa Nichols as citizens by intermarriage of the Choctaw Nation, for the reason that the persons through whom they claim their rights had also been denied by a decree of the Choctaw and Chickasaw Citizenship Court.

On March 30, 1906, the Commission to the Five Civilized Tribes denied the application for the enrollment of Susie Brew as a citizen by blood of the Choctaw Nation, and on April 6, 1906 (I. T. D. 3810-1906), the Department set aside said decision of the Commission and returned the record to this office for a full investigation upon its merits.

Under the regulations adopted by the Commissioner to the Five Civilized Tribes of January 2, 1906, there was filed on February 6, 1906, by Grace, Grace and Blackmore, of Ardmore, Indian Territory, attorneys for the petitioners, petitions praying that William B. Brown, Nancy A. Brown, Minnie Hudson, Sarah Johnston, Oscar Lee Johnston, William Herman Johnston, Rebecca Brown, Minnie Gertrude Brown, Henry Nita Brown, Eddie Bill Brown, Eli W. Brown, Mary A. Johnston, Ray Lester Johnston, Edna A. Johnston, Rebecca McCarty, William A. McCarty, Mary E. McCarty, William H. Brown, Nancy Jane Brown, George Brown, Alice Brown, Susie Brown, Gletus Brown, Clarence Brown, A. J. Peck, Polly Ann Peck, Minnie Peck, Oscar Sherman Peck, Benjamin Grant Peck, Andrew Peck, C. D. Peck,

Virgie Peck, Prebble Peck, G. H. Brown, Amanda Brown, Mandy Brown, William Brown, Elbert K. Brown, Annie Jewel Brown, George G. Brown, Sarah Brown, Willie Emma Brown, Cassie Brown, Goldie Brown, J. B. Nichols, Nancy Nichols, Delma Nichols, John W. B. Nichols, Bessie Deaton Nichols, Louis Herman Nichols, Golda Rula Nichols, Silva^{Jewel} Nichols, Della May Scott, Emma Scott, Orin M. Nichols, Amanda Nichols, Myrtle Nichols, Louis Nichols, James W. Nichols, Osa Nichols, Cora Lee Nichols and Maggie Angel be enrolled as citizens of the Choctaw Nation.

All of the above petitioners, with the exception of Ollie McCarty, Lita Lois Scott, Daphne Myrtle Nichols and Teddy Golden Johnston, are identical with the applicants for whom application has been made for enrollment as citizens of the Choctaw Nation.

On April 16, 1906, the principal petitioners, their attorneys, Grace, Grace & Blackmore, of Ardmore, Indian Territory, and Messrs. Mansfield, McMurray & Cornish, attorneys for the Choctaw and Chickasaw Nations, of South McAlester, Indian Territory, were advised that the Commissioner to the Five Civilized Tribes would at his office at Muskogee, Indian Territory, on Monday, May 14, 1906, at nine o'clock A. M., hear such testimony and receive such other evidence as might be submitted by the petitioners in support of their applications for enrollment as citizens of the Choctaw Nation, and by the attorneys for the Choctaw and Chickasaw Nations.

On April 16, 1906, William H. Brown, father of Susie Brown, Grace, Grace & Blackmore, attorneys for said Susie Brown, and Mansfield, McMurray & Cornish, attorneys for the Choctaw and Chickasaw Nations, were advised that on April 6, 1906, the Department set aside the decision rendered by the Commission on March 28, 1906, and returned the record in said case with in-

structions that a full investigation be made of the rights of said Susie Brown to enrollment as a citizen by blood of the Cheestaw Nation; that the testimony of creditable witnesses be required showing her Cheestaw blood, if any, the time and place of her birth, her various residences, her ancestors, the privileges, if any, enjoyed by her and her parents as citizens of the Cheestaw Nation; and notified that the Commissioner to the Five Civilized Tribes would at his office at Muskogee, Indian Territory, on Monday, May 14, 1906, at nine o'clock A. M., hear such testimony and receive such other evidence as might be submitted in support of said application, investigation to be conducted along the lines indicated by Department letter above referred to.

On motion of Attorney for applicants, the hearing in the matter of the above application was continued on April 26, 1906, to May 21, 1906.

On May 21, 1906, proceedings were had in the matter of said applications in pursuance to the notices above mentioned.

It appears from the record herein that the applicants, William W. Brown, Caswell W. Brown, Polly Ann Peck, George G. Brown, Nancy A. Brown and Bettie McCarty, are the children of the principal applicant, William B. Brown, and Rebecca Geeyer (now deceased), who is alleged to have been a Cheestaw Indian, and the daughter of William Geeyer, who was the son of Johnny Geeyer, an alleged Cheestaw Indian, who resided near the line between the states of Tennessee and Mississippi; that Sarah Johnston, Becky Brown, Mary Johnston, Mamie (or Minnie) Hudson, Alice Brown, George Brown, Susie Brown, Fannie G. Brown and Willis Clarence Brown, are the children of the applicants

William H. Brown and Nancy J. Brown, (the latter an applicant for intermarried rights); that William Brown, Oscar Lee and Teddy Golden Johnston are the children of the applicant, Sarah Johnston, and J. A. Johnston, a non-citizen; that Minnie Gertrude, Henry Niten and Rubie Dill Brown are the children of the applicants, Becky Brown and Eli W. Brown, (the latter an applicant for intermarried rights); that Roy Lester and Edna Arvel Johnston are the children of the applicant, Mary Johnston, and Jace J. Johnston, a non-citizen; that Maudie, Willie, Elbert Knightington, and Annie Jewell Brown are the children of the applicant, Caswell H. Brown and Amanda Brown (the latter an applicant for intermarried rights); that Florence, Oscar, Benjamin, Andrew, Otis Dewey Virgie and Prebble Peck are the children of the applicant, Pelly Ann Peck and Andrew J. Peck (the latter an applicant for intermarried rights); that Willie Emma, Cassie and Goldie Brown are the children of the applicants, George G. Brown and Sarah Brown (the latter an applicant for intermarried rights); that Mary Ethel, William A. and Ollie McCarty are the children of the applicant, Bettie McCarty, and Oliver McCarty, a non-citizen; that James B. Nichols and Grin N. Nichols are the children of Wilson Nichols (now deceased), a non-citizen, and Delitha Cooper (now deceased), who is alleged to have been a Choctaw Indian and the daughter of John Cooper, above referred to; that John W. B. Nichols, Della May Scott and Nancy E. Nichols are the children of the applicant, James B. Nichols and Nancy C. Nichols (the latter an applicant for intermarried rights); that Louie Herman, Golda Ula and Sylvia Jewel Nichols are the children of the applicant, John W. B. Nichols and Beacie Nichols (the latter an applicant for

intermarried rights); that Nema May and Lita Lois Scott are the children of the applicant, Della May Scott, and Norris Scott, a non-citizen; that James W., Maggie M., Nettie Myrtle and Louis A. Nichols are the children of the applicant, Orie M. Nichols and Amanda M. Nichols (the latter an applicant for intermarried rights); and that the applicant, Oera Lee and Daphne Myrtle Nichols, are the children of the applicants, James W. Nichols and Osa Nichols (the latter an applicant for intermarried rights).

The applicant, William B. Brown, claims his right to citizenship in the Choctaw Nation by the virtue of his marriage on February 10, 1888, under the laws of the state of Arkansas, to Becky Cooper (now deceased); that Nancy Brown claims her right to enrollment as a citizen by intermarriage by virtue of her marriage to the applicant, William B. Brown, on September 21, 1879; that Eli W. Brown claims his right to enrollment as a citizen by intermarriage by virtue of his marriage on August 21, 1899, under the laws, customs and usages of the Chickasaw Nation to the applicant, Becky Brown, both of said applicants being at said time residents in good faith of the Chickasaw Nation; that Amanda Brown claims her right to enrollment as a citizen by intermarriage by virtue of her marriage on December 2, 1886, to the applicant, Caswell M. Brown; that Andrew J. Peck claims his right to enrollment as a citizen by intermarriage by virtue of his marriage on December 15, 1887, under the laws of the state of Arkansas to the applicant, Polly A. Peck; that Sarah Brown claims her right to enrollment as a citizen by intermarriage by virtue of her marriage to George G. Brown on June 9, 1896; that the applicant, Nancy G. Nichols, claims her right to enrollment as a citizen by intermarriage by virtue of her marriage to the applicant, James B.

Nichols, on March 9, 1873; that the applicant, Bessie Nichols, claims her right to enrollment as a citizen by intermarriage by virtue of her marriage on September 11, 1868, to the applicant, John W. R. Nichols; that Amanda M. Nichols claims her right to enrollment as a citizen by intermarriage by virtue of her marriage on October 23, 1878, to the applicant, Orin M. Nichols; and that Osa Nichols claims her right to enrollment as a citizen by intermarriage by virtue of her marriage on April 27, 1899, to the applicant, James W. Nichols.

It does not appear from the record herein or from the records in the possession of this office that the applicant, Andrew J. Peck, has ever been admitted to Choctaw citizenship by a duly constituted court or committee of the Choctaw Nation, nor has said applicant ever been married to Fally Ann Peck, through whom he claims his intermarried rights, by virtue of a license issued by the tribal authorities of either the Choctaw or Chickasaw Nation.

At the hearing before the Commissioner to the Five Civilized Tribes on May 21, 1906, William H. Brown, Caswell M. Brown, James R. Nichols and Orin M. Nichols testified that in 1894, they, together with the other applicants herein who were living at said time, petitioned the Choctaw Council for admission as citizens of the Choctaw Nation; that no action having been taken thereon, they, in 1896, appeared before the Choctaw Census Commission and made application to be enrolled upon the 1896 Choctaw Census Roll; and that some time in January, 1897, they received a certificate from the Secretary of the Choctaw Advisory Board, wherein it appeared that they had been enrolled upon the 1896 Choctaw Census Roll. Said applicants further testified

that prior to 1896 they had been permitted to issue permits for their tenants, held lands, and were not subject to any tribal tax which was due from all non-citizens who were engaged in the mercantile business.

On June 4, 1906, John H. Gamblin testified that he was acquainted with the applicants herein, and that in October, 1894, he having business before the Choctaw Council, presented on behalf of the applicants herein who were living at that time, a petition praying that they be admitted as citizens of the Choctaw Nation, and that he does not know what action, if any, was ever taken thereon.

Upon an examination of the tribal rolls of the Choctaw Nation in the possession of this office, it appears that the applicants, William B. Brown, William H. Brown, Nancy J. Brown, Caswell M. Brown, Amanda Brown, Polly Ann Peck, Andrew J. Peck, George G. Brown, Sarah Brown, Nancy A. Brown, Bettie McCarty, Sarah Johnston, Becky Brown, Mary Johnston, Mamie (or Minnie) Hudson, Alice Brown, George Brown, Samie Brown, Maudie Brown, Willie Brown, Florence Peck, Oscar Peck, Benjamin Peck, Andrew Peck, James B. Nichols, Nancy C. Nichols, Orin M. Nichols, Amanda M. Nichols, John W. B. Nichols, Della May Scott, Nancy V. Nichols, James W. Nichols, Maggie M. Nichols, Nettie Myrtle Nichols and Lenie A. Nichols, are identified upon the 1896 Choctaw Census Roll opposite numbers 1688, 1691, 1692, 1701, 1702, 10618, 10617, 1705, 1706, 1689, 1690, 1693, 1694, 1695, 1696, 1697, 1698, 1699, 1703, 1704, 10619, 10620, 10621, 10622, 9803, 9806, 9812, 9813, 9809, 9810, 9811, 9814, 9815, 9816 and 9817, respectively.

It further appears from the record herein that all of

the applicants, that were living on June 28, 1898, were residents in good faith of the Indian Territory on said date.

The evidence in this case further shows that the applicant, Daphne Myrtle Nichols, died on June 27th 1901.

I am of the opinion that in accordance with the opinions of the Assistant Attorney General for the Department of the Interior of February 10, 1905 (I. T. D. 10353-1904) and December 2, 1905 (I. T. D. 3693-1905), in the case of Lela West, the action of the Commission to the Five Civilized Tribes, and the subsequent action of the United States Court for the Southern District of Indian Territory, and the Choctaw and Chickasaw Citizenship Court, upon the right of the applicants who applied to the Commission to the Five Civilized Tribes in 1896, with the exception of Andrew J. Peck, was without authority of law, and of no force and effect upon the status of said applicants as citizens of the Choctaw Nation.

I am further of the opinion that the orders of the Commission to the Five Civilized Tribes of December 12, 1904 and March 18, 1906, dismissing the applications for the enrollment of Mary E. McCarty, William Bryan Johnston, Minnie Gertrude Brown, Fannie C. Brown, Henry Niten Brown, Elbert Knightington Brown, Otis Dewey Peck, Virgie Peck, Louis Herman Nichols and Golda Ula Nichols as citizens by blood of the Choctaw Nation, and Hil W. Brown, Bessie Nichols and Osa Nichols as citizens by inter-marriage of the Choctaw Nation, should be rescinded.

I am further of the opinion that in accordance with the opinions of the Assistant Attorney General for the Department of the Interior of March 3, 1906 (I. T. D. 127-1906) and March 19,

1906 (L. T. D. 9999-1906), Nancy A. Brown, Bettie McCarty, Mary Ethel McCarty, William W. Brown, Sarah Johnston, Becky Brown, Mary Johnston, Mamie (or Minnie) Hudson, Alice Brown, George Brown, Susie Brown, William Brown Johnston, Minnie Gertrude Brown, Henry Hiten Brown, Fannie C. Brown, Caswell M. Brown, Mandie Brown, Willie Brown, Elbert Knightington Brown, Pelly A. Peck, Florence Peck, Oscar Peck, Benjamin Peck, Andrew Peck, Otis Dewey Peck, Virgie Peck, George G. Brown, Willie Emma Brown, James B. Nichols, Della May Scott, Nancy V. Nichols, John W. B. Nichols, Louis Herman Nichols, Golda Ula Nichols, Orin M. Nichols, James W. Nichols, Maggie M. Nichols, Mattie Myrtle Nichols and Lemie A. Nichols should be enrolled as citizens by blood of the Cheateau Nation, under the provisions of the Acts of Congress approved June 28, 1898 (30 Stats., 495) and July 1, 1902 (32 Stats., 641), and it is so ordered.

I am further of the opinion that William B. Brown, Nancy Brown, Eli W. Brown, Amanda Brown, Sarah Brown, Nancy C. Nichols, Bessie Nichols, Amanda M. Nichols and Osa Nichols should be enrolled as citizens by intermarriage of the Cheateau Nation, under the provisions of the Acts of Congress approved June 28, 1898 (30 Stats., 495) and July 1, 1902 (32 Stats., 641), and it is so ordered.

I am further of the opinion that the application made for the enrollment of Andrew J. Peck as a citizen by intermarriage of the Cheateau Nation should be denied, under the provisions of the Act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered.

I am further of the opinion that William A. McCarty, Ollie McCarty, Oscar Lee Johnston, Willis Clarence Brown, Ray

Lester Johnston, Nina Arvel Johnston, Teddy Golden Johnston, Rubie Bill Brown, Annie Jewell Brown, Frankie Peck, Cassie Brown, Goldie Brown, Emma May Scott, Lita Leis Scott, Sylvia Jewel Nichols and Gera Lee Nichols should be enrolled as citizens by blood of the Chectaw Nation, under the provisions of the Act of Congress approved April 26, 1906 (Public No. 129), and it is so ordered.

I am farther of the opinion that the application made for the enrollment of Daphne Myrtle Nichols as a citizen by blood of the Chectaw Nation should be dismissed, and it is so ordered.

COMMISSIONER.

Wuskogee, Indian Territory,

Aug. 13, 1906.

7-5060

COPY

Muskogee, Indian Territory, August 13, 1906.

Mary Johnston,

Comanche, Indian Territory.

Dear Madam:

Inclosed herewith you will find a copy of the decision of the Commissioner to the Five Civilized Tribes, rendered August 13, 1906, granting the application for the enrollment of Mary Johnston, Roy Lester Johnston and Edna Arvel Johnston, as citizens by blood of the Choctaw Nation.

The decision, with the record of proceedings in the case, is this day transmitted to the Secretary of the Interior for review. The final decision of the Secretary will be made known to you as soon as this office is informed of the same.

respectfully,

Shirley Tamm

Commissioner.

Registered.

RAH 4/13

7-5060.

Muskogee, Indian Territory, May 3, 1905

Jace J. Johnston,

Comanche, Indian Territory.

Dear Sir:

Receipt is hereby acknowledged of the affidavits of Mary A. Johnston, nee Brown and Benj. J. Plunkett, to the birth of Roy Lester Johnston, son of Jace J. and Mary A. Johnston, October 28, 1903.

It appears that you are a noncitizen and that the Choctaw and Chickasaw Citizenship Court on November 29, 1904, denied the citizenship in the Choctaw Nation of your wife, Mary Johnston, formerly Brown, and under the provisions of the Act of Congress approved March 3, 1905, the Commission is authorized for a period of sixty days from that date to receive applications for the enrollment of children born to enrolled citizens by blood of the Choctaw and Chickasaw Nations prior to March 4, 1905.

You will therefore see that the Commission is without authority to enroll your child.

Respectfully,

Chairman.

SPECIAL.

J.P.

**DEPARTMENT OF THE INTERIOR,
WASHINGTON.**

**D.C. 2920-1907.
I.T.D 28868-1906.
818-1907.**

**FILE
January 18, 1907.**

LRS

**Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.**

Sir:

Referring to departmental letters of January 9 and 14, 1907, in the matter of the applications for the enrolment of Mattie Shockley et al., as citizens by blood of the Choctaw Nation, you are advised that by direction of the President the case will be submitted to the Attorney-General for his opinion. You will suspend action relative to these claimants until further advised.

Respectfully,

Thos Ryan

First Assistant Secretary.

D.O.M.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

J.W.H.
W.C.R.
J.W.L.

GWV
File-3-51.

March 1, 1909.

The Commissioner
to the Five Civilized Tribes.

Sir:

January 25, 1909, you were advised that the names of certain persons were inadvertently included in Departmental letter of January 19, 1909 (File 3-51); that such mistake was due to the fact that it was supposed they were enrolled upon schedules approved by the Department, when in fact, the only schedules upon which their names appear were disapproved, and that no action should be taken under the circumstances looking to the erasure of interlineations or notations, if any, from the disapproved schedules, in connection with their names.

The names of the persons referred to in said letter of January 25, 1909, are as follows:

Chesteau by Blood.

Roll No.

16103

Elizabeth Allen.

16112

George A. Duganier.

16110

Leontitia Grutchfield.

16106

Everett Grutchfield.

16111	George W. Crutchfield.
16108	Ida Crutchfield.
16107	Im Crutchfield.
16108	Kearvinia Crutchfield.
16109	William Crutchfield.
921	Josephine Laflere Long.
922	Jake Laflere Long.
16104	David Ritter.

It now appears from the records of the Secretary's Office that there was a schedule approved May 21, 1904, by the Secretary of the Interior, and that the approval then given was cancelled by said Secretary at a later date, to-wit, June 28, 1904.

The name of Elizabeth Allen appears upon the schedule which was approved May 21, 1904, opposite the number 15551. Ida Crutchfield's name appears opposite No. 15553, while the other members of the Crutchfield family were given the numbers immediately following that assigned to her.

You are requested to cause a report to be prepared showing whether the records of your office also show that an earlier schedule containing the names of said persons was approved May 21, 1904; also whether such approval was cancelled June 28, 1904. Please report also the reason for the attempted cancellation, and whether prior notice was given thereof.

4

It appears further that, in connection with the names of Elizabeth Allen and the Grutchfield family on the roll approved May 21, 1904, the names of Ardella Hickman, Ida M. Southard and Grover Randall are also to be found.

In connection with said names, it is desired that you will report what action, in your opinion, should be taken concerning the first of said persons; also whether the said Ida M. Southard and Grover Randall, respectively, are identical with the Ida M. Southard whose name appears opposite No. 15880 in the printed rolls of citizens by blood of the Chectaw Nation, and the Grover Randall whose name appears on page 8 of Departmental letter of January 19, 1909 (File 5-81), opposite No. 15922.

As appears from the above list, there were other persons besides the said Allen and Grutchfields whose names were enrolled on schedules which were finally disapproved by the Department: for example, George A. Bumgarner, Josephine Laflere Long and Jake Laflere Long.

Please report whether the names of those persons appear upon any prior approved schedule; also why it was that the Commissioner to the Five Civilized Tribes enrolled them upon the schedule which was disapproved by the Department, showing whether the Commissioner enrolled them thereon, of his own motion, or under decision or instructions from the Department.

By comparison of the roll approved May 21, 1904, with the printed rolls of Chectaws by blood, the Department

finds that the numbers appearing thereon opposite the names of said persons were subsequently assigned to other citizens of the Choctaw Nation; thereby the series of roll numbers was kept perfect, but a material portion of the rolls was evidently sacrificed upon the supposition that it had become worthless. Inquiry arises in this connection as to whether there were other approved schedules which were subsequently disapproved and thrown aside. Accordingly, it is desired that you also cause a report to be prepared covering this feature of the matter, showing all persons embraced in similar cases, with recommendation as to what action should be taken as to them. This will necessitate a statement as to why their names were stricken or cancelled from the rolls, and whether such action was taken without prior notice.

There is still another matter concerning which the Department desires report to be made. It is observed that the words "No person enrolled at this number" are to be found not infrequently opposite consecutive numbers on the pages of the printed rolls; and you are requested to advise the Department whether such words were substituted for the names of individuals appearing on disapproved schedules, and if such is the case, whether such disapproved schedules were approved at any time by the Department; also whether favorable decisions were ever rendered by the Department as to such persons prior to their enrollment upon such disapproved schedules.

For the sake of expedition, a partial report should be rendered at once concerning the said Elizabeth Allen and the various members of the Crutchfield family named above. The other matters referred to herein can be disposed of by subsequent reports.

Very respectfully,

Joseph H. Wilson,

Assistant Secretary.

Through the
Indian Office.

100-1
10000-00
10000-00

JFM

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON, D. C., Feb. 8, 09.

Respectfully referred to the Commissioner
to the Five Civilized Tribes, for
appropriate action.

John Francis, Jr.
Acting Chief Land Division.

1 letter dated Feb. 1, 09.

D 400-1909.

Waskago, Oklahoma, April 20, 1909.

Subject:

Reporting Report relative
to petition of Wm. E. Brown,
et al. for enrollment as
citizens of the Choctaw
Nation.

The Honorable,

The Secretary of the Interior,

Sir:

Receipt is hereby acknowledged of Indian Office letter of April 9, 1909 (Land 23090-1909) transmitting petition of Wm. E. Brown, et al. for enrollment as citizens of the Choctaw Nation. This office is also requested to report specially whether the names of any of the persons in this petition appeared upon any tribal rolls of the Choctaw Nation or upon any roll prepared by the Commission to the Five Civilized Tribes and approved by the Secretary of the Interior.

March 1, 1909, the Department also addressed a letter to this office requesting reports as to all persons whose names may have been upon disapproved schedules and at whose numbers in the printed rolls appears the notation "No person enrolled at this number."

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The case of William E. Brown is one of the cases referred to in Departmental letter of March 1, 1903 and the report is made to the Secretary of the Interior, through the Indian Office, with the view of complying with both requests.

I have the honorable report as follows, relative to the case of William E. Brown and the other members of his family who were included in the decision in the consolidated Chester case of William E. Brown, et al.:

It appears from the records of this office that on September 9, 1896, in the case entitled Nancy Cooper et al. versus the Chester Nation, 1896 Chester Citizenship Case Number 1418, original application was made to the Commission to the Five Civilized Tribes, under the provisions of the Act of Congress approved June 15, 1896 (29 Stat., 321), for admission to citizenship in the Chester Nation of the applicants, Nancy A. Brown (as Nancy Ann Brown), Bettie Mc Cartty (as Rebecca Elizabeth Brown), William E. Brown (as William Hiten Brown), Sarah Johnston (as Sarah Elizabeth Brown), Baby Brown (as Rebecca Catherine Brown), Mary Brown (as Mary Arrillie Brown), Mamie (or Minnie) Hudson (as Minnie Ann Brown), Alice Brown, George Brown (as George Montgomery Brown), Cavall E. Brown, Naudie Brown (as Naudy E. Brown), Willie Brown (as William C. Brown,) Polly A. Peck (as Polly Ann Peck, Florence

Secretary 3

Peck (as Minnie V. Peck), Oscar Peck (as Oscar E. Peck), Benjamin Peck (as Benjamin G. Peck), Andrew Peck, George G. Brown, Willie Emma Brown, James B. Nichols (as James Erastus Nichols), Della May Scott (as Mary Della May Nichols), Nancy V. Nichols (as Emma Velma Nichols), John W. B. Nichols (as John William Bethuel Nichols), Orin H. Nichols (as Orrin Mayberry Nichols), James W. Nichols (as James Willis Nichols), Maggie M. Nichols (as Maggie May Nichols), Mattie Myrtle Nichols, Lemie A. Nichols (as Lena Alta Nichols), as citizens by blood, and for the admission of William B. Brown, Nancy J. Brown (as Nancy Jane Brown), Amanda Brown, Andrew J. Peck (as A. J. Peck), Sarah Brown, Nancy C. Nichols (as Nancy Caroline Nichols), and Amanda V. Nichols (as Amanda Melvina Nichols), as citizens by intermarriage of said nations; and that on December 2, 1894, said Commission rendered its decision denying the applications for citizenship of the above named persons.

From this decision of the Commission an appeal was taken to the United States Court for the Southern District of Indian Territory which court on December 20, 1897, in the case entitled Nancy J. Cooper, et al. versus the Chester Nation, Case Number 24 on the Citizenship docket, admitted Nancy A. Brown (as Nancy Alice Brown), Bettie McCarty (as Bettie Brown), Sarah Johnston (as Sarah Brown), Rocky Brown,

Secretary 4

Mary Brown, Mamie (or Minnie) Hudson (as Mamie Brown), Alice Brown, George Brown, Basil Brown, Casswell M. Brown (as Casswell Marion Brown), Mamie Brown, Willie Brown, Felly A. Peck (as Felly Ann Peck,) Florence Peck, Oscar Peck, Benjamin Peck (as Benjamin Grant Peck), Andrew Peck, George C. Brown, Willie Anna Brown, James H. Nichols (as James Hutes Nichols,) Della May Scott (as Dell May Nichols), Nancy V. Nichols (as Nancy Volmar Nichols), Orin H. Nichols (as Orin Hayberry Nichols), James W. Nichols (as James Willis Nichols), Maggie M. Nichols (as Maggie May Nichols), Mattie Myrtle Nichols (as Myrtle Nichols), and Louis A. Nichols (as Louis Mts Nichols) as citizens by blood of the Choctaw Nation, and William B. Brown (as William Bluford Brown), Andrew J. Peck (as Andrew Jackson Peck) and Nancy Nichols (as Nancy Caroline Nichols) as citizens by intermarriage of said nation, and denied the applications for the admission of Nancy J. Brown (as Nancy Jane Brown), Sarah Brown and Amanda H. Nichols (as Amanda Melvina Nichols) as citizens by intermarriage of the Choctaw Nation.

The name of the applicant, Basil Brown, was interpolated in the judgment of said court, she not having been an applicant before the Commission to the Five Civilized Tribes in 1898.

March 18, 1898, this case again came before the United States Court upon a motion of the plaintiffs' attorneys to

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correct the judgment of said court rendered December 20, 1897, and the court thereupon ordered said judgment corrected as as to admit the applicants, Nancy J. Brown (as Nancy Jane Brown), Sarah Brown, Amanda M. Nichols (as Amanda Melvina Nichols) as citizens by intermarriage of the Choctaw Nation.

September 22, 1898, said court rendered a supplemental judgment admitting Amanda Brown as a citizen by intermarriage of the Choctaw Nation.

January 17, 1900, the same again came before the court upon a motion of the defendant to strike out of the judgment theretofore rendered certain names improperly admitted to citizenship, and the court ordered that the names of Essie Brown, Andrew J. Peck (as Andrew Jackson Peck), Nettie McCarty (as Nettie Brown), and Becky Brown be stricken from said former judgment.

Subsequently, upon the representation of the plaintiffs' attorneys that certain persons who were original applicants were by oversight or mistake left out of the original judgment theretofore rendered, the court ordered that the applicants, Nancy J. Brown (as Nancy Jane Brown), Sarah Brown, Amanda Brown, Amanda M. Nichols and Rebecca L. Brown be admitted to citizenship in the Choctaw Nation.

December 17, 1902, the Choctaw and Chickasaw Citizenship

Secretary 6

Court, created under the provisions of the Act of Congress approved July 1, 1902 (32 Stat., 641), "set aside, annulled, vacated and held for naught" the aforesaid judgment of the United States Court for the Southern District of the Indian Territory.

The record in this case was subsequently certified to the Choctaw and Chickasaw Citizenship Court for a trial de novo, which court, November 27, 1904, in the case entitled William Highten Brown, et al. versus the Choctaw and Chickasaw Nations, Number 73 on the Tishomingo Docket, ordered, adjudged and decreed that the claim of the plaintiffs be denied and that they be declared not citizens of the Choctaw Nation, and not entitled to enrollment as such citizens, and not entitled to any rights whatever flowing therefrom.

December 12, 1904, orders were entered of record by the Commission to the Five Civilized Tribes dismissing the applications for the enrollment of Mary E. McCarty, William Erman Johnston, Minnie Gertrude Brown, Henry Eiten Brown, Ebert Knightington Brown, Otis Dewey Peck, Virgie Peck, Louis Herman Nichols and Golda Ula Nichols as citizens by blood of the Choctaw Nation and March 12, 1905, an order was entered of record dismissing the application for the enrollment of Fannie S. Brown as a citizen by blood of said nation

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for the reason that the parents of these children had been denied by a decree of the Choctaw and Chickasaw Citizenship Court.

December 12, 1904, orders were entered of record by the Commission dismissing the applications for the enrollment of Eli W. Brown, Bessie Nichols and Osa Nichols as citizens by intermarriage of the Choctaw Nation for the reason that the persons through whom they claimed their rights had been denied by a decree of the Choctaw and Chickasaw Citizenship Court.

March 30, 1905, the Commission to the Five Civilized Tribes denied the application for the enrollment of Hattie Brown as a citizen by blood of the Choctaw Nation, and on April 6, 1906 (I T D 3810-1905) the Department set aside this decision of the Commission and returned the record to this office for investigation upon its merits.

Under the regulations adopted by the Commissioner to the Five Civilized Tribes of January 2, 1906, there were filed on February 6, 1906, by Grace, Grace & Hesketh, attorneys for the petitioners, Ardmore, Indian Territory, petitions praying that William A. Brown, Nancy A. Brown, Minnie Hudson, Saml Johnston, Oscar Lee Johnston, William Brown Johnston, Rebecca Brown, Minnie Gertrude Brown, Henry

Secretary 3

Hiten Brown, Hubie Dill Brown, Eli W. Brown, Mary A. Johnston,
Ray Lester Johnston, Edna A. Johnston, Rebecca McCarty,
William A. McCarty, Mary E. McCarty, William H. Brown, Nancy
Jane Brown, George Brown, Alice Brown, Essie Brown, Clatus
Brown, Clarence Brown, A. J. Peck, Polly Ann Peck, Minnie
Peck, Oscar Sherman Peck, Benjamin Grant Peck, Andrew Peck,
O. B. Peck, Virgie Peck, Prebble Peck, C. M. Brown, Anthony
Brown, Maudy Brown, William Brown, Elbert E. Brown, Annie
Jewel Brown, George O. Brown, Sarah Brown, Willie Emma Brown,
Cassie Brown, Edie Brown, J. B. Nichols, Nancy Nichols,
Helma Nichols, John W. B. Nichols, Bessie Deaton Nichols,
Louie Herman Nichols, Gerda Mula Nichols, Silva Jewel Nichols,
Della May Scott, Emma Scott, Orin H. Nichols, Amanda Nichols,
Myrtle Nichols, Louie Nichols, James W. Nichols, Osa Nichols,
Cora Lee Nichols and Maggie Angel be enrolled as citizens of
the Choctaw Nation.

April 16, 1906, the principal petitioners, their attor-
neys of record and the attorneys for the Choctaw and Chick-
saw Nations, were advised that a hearing would be had in this
matter at the office of the Commissioner to the Five Civil-
ized Tribes, Muskogee, Indian Territory, Monday, May 14, 1906,
at nine o'clock A. M. and on the same date, William H. Brown,
father of Esie Brown, Grace, Grace & Blackmore, and Mary-

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field, McMurray & Cornish, were advised that on April 6, 1904, the Department had set aside the decision of the Commission to the Five Civilized Tribes of March 30, 1903, and returned the record with instructions that a full investigation be made of the rights of the said Samie Brown to enrollment as a citizen by blood of the Choctaw Nation, and that such testimony and evidence would be received at the date of the hearing on the petition.


On Motion of attorneys for applicants the hearing was continued until May 21, 1904, on which date proceedings were had in the matter of said petition in pursuance to the notices above mentioned.

At the hearing William H. Brown, Caswell M. Brown, James B. Nichols and Orin M. Nichols testified that in 1894, they, together with the other applicants herein who were living at that time, petitioned the Choctaw Council for admission as citizens of the Choctaw Nation; that no action having been taken by the Council as to their case they, in 1896, appeared before the Choctaw Census Commission and made application to be enrolled upon the 1896 Choctaw Census Roll; that some time in January, 1897, they received a certificate from the Secretary of the Choctaw Advisory Board, wherein it appeared that they had been enrolled upon the 1896 Choctaw Census Roll.

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It appears that the applicants, William B. Brown, William H. Brown, Nancy J. Brown, Cassell W. Brown, Amanda Brown, Pelly Ann Peck, Andrew J. Peck, George O. Brown, Sarah H. B., Nancy A. Brown, Nettie McCarty, Sarah Johnston, Becky Brown, Mary Johnston, Maggie (or Minnie) Hudson, Alice Brown, George Brown, Bessie Brown, Maudie Brown, Willie Brown, Florence Peck, Oscar Peck, Benjamin Peck, Andrew Peck, James B. Nichols, Nancy C. Nichols, Orin M. Nichols, Amanda M. Nichols, John V. M. Nichols, Ella May Scott, Nancy V. Nichols, James V. Nichols, Maggie M. Nichols, Nettie Myrtle Nichols and Louis A. Nichols are identified upon the 1890 Census Roll of the Choctaw Nation, Muskogee County.

August 13, 1906, the Commission to the Five Civilized Tribes rendered a decision, in accordance with the opinion of the Assistant Attorney General for the Department of the Interior of February 10, 1905 (I T D 10353-1904) and December 8, 1905 (I T D 1693-1905) in the case of Lula Vest, holding that the action of the Commission to the Five Civilized Tribes and the subsequent action of the United States Court for the Southern District of Indian Territory and the Choctaw and Chickasaw Citizenship Court upon the right of the applicants who applied to said Commission in 1894, with the exception of Andrew J. Peck, was without authority of law.



Secretary 11

and of no force and effect upon the status of said applicants as citizens of the Choctaw Nation.

He also rescinded the orders of the Commission to the Five Civilized Tribes of December 12, 1904, and March 18, 1905, dismissing the applications for the enrollment of Mary E. McCarty, William Ernan Johnston, Minnie Gertrude Brown, Fannie C. Brown, Henry Hiten Brown, Ebert Knightington Brown, Otis Dewey Peck, Virgie Peck, Louis Herman Nichols and Golda Ula Nichols as citizens by blood of the Choctaw Nation and Eli W. Brown, Bessie Nichols and Osa Nichols as citizens by intermarriage of the Choctaw Nation.

The Commissioner to the Five Civilized Tribes further held, in accordance with the opinions of the Assistant Attorney General for the Department of the Interior of March 3, 1905 (I T D 1874-1905) and March 10, 1906 (I T D 9069-1906) that Nancy A. Brown, Bettie McCarty, Mary Ethel McCarty, William H. Brown, Sarah Johnston, Becky Brown, Mary Johnston, Mamie (or Minnie) Hudson, Rice Brown, George Brown, Essie Brown, William Ernan Johnston, Minnie Gertrude Brown, Henry Hiten Brown, Fannie E. Brown, Cassell M. Brown, Maudie Brown, Willie Brown, Ebert Knightington Brown, Pelly A. Peck, Florence Peck, Oscar Peck, Benjamin Peck, Andrew Peck, Otis Dewey

Secretary E

Peck, Virgie Peck, George G. Brown, Willie Emma Brown, James P. Nichols, Della May Scott, Nancy V. Nichols, John W. E. Nichols, Louie Herman Nichols, Golda Ula Nichols, Orin M. Nichols, James W. Nichols, Maggie M. Nichols, Nettie Myrtle Nichols and Louis A. Nichols should be enrolled as citizens by blood and William E. Brown, Nancy Brown, Eli W. Brown, Amanda Brown, Sarah Brown, Emory C. Nichols, Bessie Nichols, Amanda V. Nichols and Osa Nichols as citizens by intermarriage of the Choctaw Nation under the provisions of the Acts of Congress approved June 28, 1898 (30 Stat., 495) and July 1, 1900 (32 Stat., 641).

The applications for the enrollment of William A. McCarty, Ellie McCarty, Oscar Lee Johnston, Willie Clarence Brown, Roy Lester Johnston, Edna Arvel Johnston, Teddy Golden Johnston, Rubie Bill Brown, Annie Jewell Brown, Prebbie Peck, Cassie Brown, Goldie Brown, Emma May Scott, Lita Lois Scott, Elvie Jewel Nichols and Cora Lee Nichols were also granted under the provisions of the Act of Congress approved April 26, 1906 (34 Stat., 137).

The application for the enrollment of Andrew J. Peck as a citizen by intermarriage was denied and the application for the enrollment of Daphne Myrtle Nichols as a citizen by blood of the Choctaw Nation was dismissed.

Secretary 12

August 14, 1906, the record in this case, together with the decision of August 13, 1906, was transmitted to the Department.

February 7, 1907, there were transmitted to the Secretary of the Interior schedules of citizens by blood and marriage of the Chectaw Nation containing the names of the persons who were favorably passed upon by the Commissioner to the Five Civilized Tribes August 13, 1906, in the Chectaw enrollment case of William P. Brown, et al., as follows:

Citizens by blood	Nos. 16141 to 16159, inclusive
Citizens by marriage	Nos. 1637 to 1645, inclusive
Minor citizens by blood	Nos. 857 to 872, inclusive

This case was analogous to the case of Mattie Sheekley, et al. (Louis Wat case) in which this office had been directed to suspend action until the Attorney General had passed upon the questions involved in that case, but inasmuch as the time within which persons could be enrolled and their enrollment approved by the Secretary of the Interior under the provisions of the Act of Congress approved April 26, 1906, was becoming very short, the schedules above described were prepared by this office without waiting for the opinion of the Attorney General and were forwarded to the Department in order that, if the opinion of the Attorney General were favorable, the rights of these applicants might be protected without

Secretary 4

delay, and this office requested, in the event of such favorable opinion of the Attorney General, that these schedules be approved by the Secretary of the Interior.

February 26, 1907, referring to Departmental letter of February 23, 1907 (I T N 4704-1907) requesting this office to forward a list of these persons whose enrollment should be cancelled in view of the opinion of the Attorney General of February 19, 1907 in the Choctaw enrollment cases of Loula West and William C. Thompson, the Commissioner to the Five Civilized Tribes called the attention of the Department to the schedules above described which were forwarded February 7, 1907, and advised that this case was analogous to the case of Loula West. It was, therefore, recommended that the decision of August 13, 1906, be not approved by the Department and that the schedules transmitted with office letter of February 7, 1907, be disapproved by the Secretary of the Interior.

February 28, 1907 (Land 71866-1906, 2220, 14412-1907)
the Indian Office forwarded to the Department the record in the case of William E. Brown, et al. together with the schedules transmitted February 7, 1907, and recommended, in view of the opinion of the Attorney General of February 19, 1907, of that the decision of the Commissioner of August 13, 1906, in

Secretary 18

so far as it was favorable to the applicants, be reversed and the schedule discontinued, which was done by the Department March 1, 1907 (I T D 5712-1907).

This office has no record of any favorable decision of the Department as to the persons included in this consolidated case.

No actual allotments were made to the persons included in this case but applications were made on their behalf for certain lands which were involved in Chickasaw contest cases. Subsequent to March 1, 1907, these contests were dismissed and on August 31, 1907, a motion to reinstate said contests was denied.

August 29, 1907, the Department advised this office that by letter of August 4, 1907, counsel for the claimants in the case of William B. Brown, et al. requested that the order of the Department of June 14, 1907, in the case of William C. Thompson and others, suspending action on claims to allotments of lands be made applicable to them.

September 20, 1907, this office reported that it did not appear that the claimants in the case of William B. Brown, et al. possessed the same status as the claimants in the case of William C. Thompson, et al. as their names had never been upon an approved roll, but that it appeared they occupied

Secretary 16

the same status as the persons included in the case of John H. Gashlin and the case of Angus A. Sprague.

October 12, 1907 (I N 77803-1907) the Indian Office held that the action of the Commissioner to the Five Civilized Tribes in dismissing the contests on behalf of these claimants, and in refusing to reinstate the same, was proper and recommended that he be advised that all applications for allotments on behalf of these persons should be denied and this recommendation was approved by the Department October 14, 1907.

Following these instructions of the Department the lands in contest were awarded to the contestants, and patents therefor were recorded and delivered to them. It is believed, therefore, that these persons, in the event of a favorable decision relative to their enrollment, could not recover the land referred to, and if they are holding or claiming other land this office has no record of such claim.

If they are now in possession of other lands in the Choctaw and Chickasaw Nations, this office will, however, upon the receipt of Assignments thereof, make a record of their claim to the land, pending further action by the Department.

I have further to report that the record in this case is full and complete and it is believed the applicants could

Secretary 17

add nothing material thereto at this time, and that it would work an unjustifiable hardship upon them to notify them now to appear and give further testimony in this case and force upon them the expense of a hearing at this office.

I have not, therefore, forwarded the notices referred to in Departmental letter of March 15, 1909 and Indian Office letter of April 9, 1909, but will await specific instructions from the Department as to its wishes in the matter in accordance with my request of April 14, 1909, in the Yattie Rhodesley case.

If it is the desire of the Department that notices be forwarded in this case, however, this office will proceed to notify the applicants thereof immediately upon receipt of advice from the Department and will make supplemental report after their replies have been received.

The petition inclosed with Indian Office letter of April 9, 1909, is herewith returned.

Respectfully,

Commissioner.

Through the Commissioner
of Indian Affairs.

AS

1-12903

Land
31700-1909.
J.A.D.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington.

Jun. 25, 1909

Enrollment case of
Wm. B. Brown et al.

The Commissioner

to the Five Civilized Tribes,
Muskogee, Oklahoma.

Sir:

Referring to your report of April 20, 1909, relative to the consolidated Choctaw enrollment case of William B. Brown et al., you are advised, that on June 15, 1909, the Department held that the case mentioned was not analogous to that of John E. Golisky, and did not come within the principles announced by the Supreme Court of the United States in that case, (211 U. S. 249).

The Department, therefore, declined to take any action looking to the enrollment of any of the applicants in the consolidated case of William B. Brown et al.

A copy of approved Office letter of May 17, 1909, is inclosed for your further information.

You are requested to notify the parties in interest.

Very respectfully,

J. E. Dorick,
Acting Chief Clerk.

MMH-10
2530

D-7139

Land
31790-1909
J E D

DEPARTMENT OF THE INTERIOR
OFFICE OF INDIAN AFFAIRS,
Washington.

G.R.
J.W.
J.F.Jr.
W.R.L.

Enrollment case of
William B. Brown et al.

May 17, 1909.

The Honorable,

The Secretary of the Interior.

Sir:

Referring to Department letter of March 1, 1909, there is transmitted herewith a report dated April 20, 1909, from the Commissioner to the Five Civilized Tribes, relative to the enrollment case of William B. Brown et al. The history of the claim is set out fully in the reports enclosed.

The record shows, among other things, that on August 13, 1906, the Commissioner to the Five Civilized Tribes rendered a decision that Nancy A. Brown, Bettie McCarty, Mary Ethel McCarty, William M. Brown, Sarah Johnston, Becky Brown, Mary Johnston, Mamie (or Minnie) Hudson, Alice Brown, George Brown, Essie Brown, William Erman Johnston, Minnie Gertrude Brown, Henry Hiten Brown, Fannie G. Brown, Cassell M. Brown, Mamie Brown, Willie Brown, Albert Knightington Brown, Felly A. Peck, Florence Peck, Oscar Peck, Benjamin Peck, Andrew Peck, Otis Dewey Peck, Virgie Peck, George G. Brown, Willie Emma Brown, James B. Nichols, Della May Scott, Emory V. Nichols, John W. B. Nichols, Louis Herman Nichols, Oelda Ula Nichols, Ovin W. Nichols, James V. Nichols, Maggie M. Nichols, Nettie Myrtle Nichols and Louis A. Nichols should be enrolled as citizens by himself and William B. Brown, Nancy Brown, Eli W. Brown,

Amenda Brown, Sarah Brown, Harry C. Nichols, Mennie Nichols, Amenda W. Nichols and Osa Nichols as citizens by intermarriage of the Chectaw Nation under the provisions of the Acts of Congress approved June 28, 1898 (30 Stat. L. 498) and July 1, 1902 (32 Stat., L. 641).

The applications for the enrollment of William Al McCarty, Ollie McCarty, Oscar Lee Johnston, Willie Clarence Brown, Roy Lester Johnston, Edna Arvel Johnston, Teddy Galaden Johnston, Rubie Dill Brown, Annie Jewell Brown, Freddie Peek, Cassie Brown, Goldie Brown, Emma May Scott, Lita Lois Scott, Sylvie Jewel Nichols and Cora Lee Nichols were also granted under the provisions of the Act of Congress approved April 26, 1906 (34 Stat. L. 137).

The application for the enrollment of Andrew J. Peek as a citizen by intermarriage was denied and the application for the enrollment of Daphne Myrtle Nichols as a citizen by blood of the Chectaw Nation was dismissed.

It appears that on August 14, 1906, the record in the case, together with the decision, was forwarded by the Commissioner to the Five Civilized Tribes, and that on February 7, 1907, he transmitted to the Department schedules of citizens of the Chectaw Nation by blood and by marriages, containing the names of persons who were favorably passed upon by him in his decision of August 13, 1906, in this case. It appears also that on February 26, 1907, the Commissioner, referring to Department letter of February 13, 1907, invited :

L. 31790-3

the Department's attention to the above-mentioned schedules, and to the Choctaw enrollment case of William B. Brown, et al, and recommended, in view of the opinion of the Attorney General dated February 19, 1907, in the Loula West and other cases, that his decision of August 13, 1906, be not approved, and that the schedules referred to be disapproved.

On March 1, 1907, the Department reversed the decision of the Commissioner so far as it was favorable to the applicants, and disapproved the schedules containing their names.

The Commissioner to the Five Civilized Tribes reports further that his office has no record of any favorable decision of the Department as to the persons included in this case.

It appears also that their names have never been placed upon any roll or schedule of citizens of the Choctaw Nation prepared by the Commissioner to the Five Civilized Tribes and approved by the Department.

The Office concurs in the view of the Commissioner to the Five Civilized Tribes that as the record in the case is a complete one, the applicants could add nothing material thereto at this time, and to have them appear at his office to give further testimony would only make additional expense for them and work a hardship without any benefits accruing therefrom.

On April 9, 1909, the Office requested the Commissioner to the Five Civilized Tribes to take no steps pending the preparation of his report concerning the enrollment case of William B. Brown, et al toward the issuance of a patent to any adverse party in interest to the lands occupied by the applicants in the above mentioned case. The Commissioner was also

L-31790-09

requested to instruct the United States Indian Agent, at Union Agency, to suspend action, if any was contemplated, toward dispossessing the applicants of the lands occupied by them until further advised by the Department.

The Commissioner reports that no formal allotments were made to the persons included in the above case, but that applications were made in their behalf for certain lands which were involved in Chickasaw contest cases. The contests in behalf of these claimants were dismissed by the Commissioner to the Five Civilized Tribes, and on October 12, 1907, the Office held that the action of the Commissioner was proper, and recommended that he be advised that all applications for allotments in behalf of these persons should be denied.

This recommendation was approved by the Department on October 14, 1907. It appears from the report of the Commissioner to the Five Civilized Tribes that the lands in contest were awarded to the contestees and patents therefor were recorded and delivered to them. Title having passed to the contestees, the Department is now without authority to place or permit the applicants in the William B. Brown case to remain in possession of the lands covered by the patents issued to the contestees, even in the event of the Department rendering a favorable decision relative to their enrollment.

The Commissioner reports that his office has no record of the applicants in the case mentioned holding or claiming possession of any other lands in the Choctaw or Chickasaw

L-31790--8

Nations, but says that if they are in occupancy of such other lands his office will, upon receipt of a description thereof, make a record of the claims pending further action by the Department.

The Office is of the opinion that the case of William B. Brown, et al., is not analogous to that of John E. Goldsby, and that it does not come within the principles announced by the Supreme Court of the United States in its decision of November 30, 1908, in that case (211 U. S. 249).

It is therefore recommended that the Department take no action looking to the enrollment of any of the applicants included in the consolidated case of William B. Brown et al.

The record in the case, and other papers pertaining thereto, are transmitted herewith for your further information.

Very respectfully,

R. G. Valentine,

Acting Commissioner.

RRS 11

891

WCP June 15, 1909 JWH

Approved

Frank Pierce,

First Assistant Secretary. PFC.

Muskogee, Oklahoma, June 29, 1909.

Mary Johnston,

Comanche, Oklahoma.

Madam:

You are hereby notified that on June 15, 1909, the Secretary of the Interior held that the Choctaw enrollment case of William D. Brown et al., with which your case was consolidated, was not analogous to that of John E. Goldsby (211 U. S. 249) and declined to take any action looking to the enrollment of the applicants therein under the opinion of the Supreme Court of the United States of November 30, 1908, in said Goldsby case.

Respectfully,

WHA-EB.

Commissioner.

Choctaw

Mamie Hudson

Aug. 13, 1906 granted 3-1-07 Decision
of Commissioners reversed and
schedules name of this applicant
disapproved by Dept

Trans. from Choc card 5066 See
Petition # C-34

Duplicate record bound

March 1, 1909 Dept requests report

6-29-09 Parties notified

6021

C.L.J.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of
William B. Brown, et al., as citizens of the Choctaw Nation, con-
solidating the applications of

William B. Brown, et al.	7-5096,
William B. Brown, et al.	7-5096,
Eli W. Brown, et al.	7-D-432,
Caswell M. Brown, et al.	7-5096
Andrew J. Peck, et al.	7-5092
George G. Brown, et al.	7-5098
James B. Nichols, et al.	7-5100,
John W. B. Nichols, et al.	7-5097,
Orin M. Nichols, et al.	7-5091,
Osa Nichols, et al.	7-D-509.

D E C I S I O N.

It appears from the census card records in this case that on September 22, 1896, application was made to the Commission to the Five Civilized Tribes for the enrollment of William B. Brown (sixty-two years of age), as a citizen by intermarriage of the Choctaw Nation, and for the enrollment of his two children, Nancy A. Brown (twenty-three years of age) and Bettie Brown, nee McCarty (nineteen years of age), as citizens by blood of the said nation; on September 22, 1896,,for the enrollment of William B. Brown (thirty-nine years of age), and his seven minor children, Sarah Brown, nee Johnston (eighteen years of age), Reaky Brown (sixteen years of age), Mary Brown, nee Johnston (thirteen years of age), Mamie (or Minnie)

Brown, now Hudson (eleven years of age), Alice Brown (eight years of age), George Brown (five years of age) and Susie Brown (one year of age), as citizens by blood of the Choctaw Nation; and for the enrollment of Nancy Brown (thirty-six years of age) as a citizen by intermarriage of said nation; on September 5, 1899, for the enrollment of Eli W. Brown (twenty-eight years of age) as a citizen by intermarriage of the Choctaw Nation; on September 22, 1898, for the enrollment of Garwell M. Brown (thirty-four years of age), and his two minor children, Maudie (ten years of age) and Willie Brown (six years of age), as citizens by blood of the Choctaw Nation, and on October 18, 1898, for the enrollment of his wife, Aranda Brown (thirty-one years of age), as a citizen by intermarriage of said nation; on September 22, 1898, for the enrollment of Andrew J. Peck (thirty-two years of age) as a citizen by intermarriage of the Choctaw Nation, and for the enrollment of his wife, Pelly A. Peck (thirty years of age), and his five minor children, Florence (nine years of age), Oscar (seven years of age), Benjamin G. (five years of age), Andrew (three years of age), and Otis Dewey Peck (two months of age), as citizens by blood of said nation; on September 22, 1898, for the enrollment of George G. Brown (twenty-six years of age), and his minor daughter, Willie Emma Brown (three years of age), as citizens by blood of the Choctaw Nation, and for the enrollment of his wife, Sarah Brown (twenty-one years of age), as a citizen by intermarriage of said nation; on September 22, 1898, for the enrollment of James N. Nichols (forty-eight years of age), and his two minor children, Della May Nichols, now Scott (fourteen years of age), and Nancy V. Nichols (seven years of age), as citizens by blood of the Choctaw Nation, and for the enrollment of his wife, Nancy G. Nichols, (forty-two years of age), as a

citizens by intermarriage of said nation; on September 22, 1898, for the enrollment of John W. M. Nichols (twenty-four years of age) as a citizen by blood of the Choctaw Nation, and for the enrollment of his wife, Bessie Nichols (eighteen years of age), as a citizen by intermarriage of said nation; on September 22, 1898, for the enrollment of Orin M. Nichols (forty-four years of age), and his four minor children, James W. (eighteen years of age), Maggie M. (twelve years of age), Nettie Myrtle (eight years of age), and Lonie A. Nichols (four years of age), as citizens by blood of the Choctaw Nation, and for the enrollment of his wife, Amanda M. Nichols (thirty-eight years of age), as a citizen by intermarriage of said nation; and on September 25, 1899, for the enrollment of Osa Nichols (seventeen years of age) as a citizen by intermarriage of the Choctaw nation.

Applications were subsequently made for the enrollment of the following minor applicants as citizens by blood of the Choctaw nation: On January 20, 1902, for the enrollment of Mary Ethel McCarty (born December 8, 1901); on May 31, 1906, for the enrollment of William A. McCarty (born April 21, 1904) and Ollie McCarty (born February 14, 1906); on October 13, 1900, for the enrollment of William Brown Johnston (born June 30, 1900); on October 19, 1900, for the enrollment of Minnie Gertrude Brown (born August 13, 1900); on May 16, 1901, for the enrollment of Fannie G. Brown (born February 11, 1901); on April 29, 1906, for the enrollment of Oscar Lee Johnston (born November 14, 1902); on April 29, 1906, for the enrollment of Willie Clarence Brown (born April 8, 1903); on July 12, 1903, for the enrollment

Henry Niten Brown, (born May 21, 1902); on April 29, 1906, for the enrollment of May Lester Johnston (born October 26, 1903); on May 21, 1906, for the enrollment of Edna Arvel Johnston (born March 21, 1906); on April 14, 1906, for the enrollment of Rubie Bill Brown (born February 12, 1904); in 1899, for the enrollment of Elbert Knightington Brown (born October 8, 1899); on April 7, 1906, for the enrollment of Annie Jewell Brown (born December 2, 1902); on December 10, 1901, for the enrollment of Virgie Peck (born October 11, 1901); on April 8, 1906, for the enrollment of Prebble Peck (born February 19, 1904); on May 21, 1906, for the enrollment of Cassie Brown (born May 30, 1900) and Goldie Brown (born September 6, 1904); on April 17, 1906, for the enrollment of Hema May Scott (born May 16, 1903) and Lita Lois Scott (born February 1, 1906); on September 1, 1900, for the enrollment of Louis Herman Nichols (born August 19, 1900); on December 27, 1901, for the enrollment of Gelda Ula Nichols (born September 15, 1901); on April 1, 1906, for the enrollment of Sylvie Jewel Nichols (born August 23, 1903); on April 14, 1906, for the enrollment of Cera Lee Nichols (born November 6, 1902); on April 6, 1901, for the enrollment of Daphne Myrtle Nichols (born February 20, 1901); and on May 21, 1906, for the enrollment of Teddy Gideon Johnston (born June 15, 1906).

It appears from the records of the Commission to the Five Civilized Tribes that on September 2, 1896, in the case entitled "Henry Geeser, et al. vs. Cheate Nation" (1896 Cheate Citizenship Decree, Case No. 1418), original application was made to said Commission, under the provisions of the Act of Congress approved June 10, 1896 (29 Stat., 321), for admission to

citizenship in the Cheatar Nation of the applicants, Nancy A. Brown (as Nancy Alice Brown), Bettie McCarty (as Rebecca Elizabeth Brown), William E. Brown (as William Hiten Brown), Sarah Johnston (as Sarah Elizabeth Brown), Becky Brown (as Rebecca Catherine Brown), Mary Brown (as Mary Arrillie Brown), Mamie (or Minnie) Hudson (as Minnie Ann Brown), Alice Brown, George Brown (as George Montgomery Brown), Caswell M. Brown, Naudie Brown (as Mandy E. Brown), Willie Brown (as William G. Brown), Pelly A. Peck (as Pelly Ann Peck), Florence Peck (as Minnie F. Peck), Oscar Peck (as Oscar S. Peck), Benjamin Peck (as Benjamin G. Peck), Andrew Peck, George G. Brown, Willie Emma Brown, James B. Nichols (as James Bruton Nichols), Della May Scott (as Mary Della May Nichols), Nancy V. (Nannie Velma Nichols), John W. B. Nichols (as John William Bethuel Nichols), Orin N. Nichols (as Orrin Maybery Nichols), James W. Nichols (as James Willis Nichols), Maggie M. Nichols (as Maggie May Nichols), Nettie Myrtle Nichols, Lenie A. Nichols (as Lena Alta Nichols), as citizens by blood of said nation, and for the admission of William E. Brown, Nancy J. Brown (as Nancy Jane Brown), Amanda Brown, Andrew J. Peck (as A. J. Peck), Sarah Brown, Nancy C. Nichols (as Nancy Caroline Nichols), and Amanda M. Nichols (as Amanda Melvina Nichols), as citizens by intermarriage of said nation; and that on December 8, 1896, said Commission rendered its decision therein, denying the application of the above named applicants for enrollment as citizens of the Cheatar Nation.

From the decision of said Commission an appeal was taken to the United States Court for the Southern District of Indian Territory, which court on December 27, 1897, in the case

entitled "Nancy J. Cooper, et al. vs. Choctaw Nation" (Southern District Citizenship Case No. 96), admitted Nancy A. Brown (as Nancy Alice Brown), Bettie McCarty (as Bettie Brown), Sarah Johnson (as Sarah Brown), Becky Brown, Mary Brown, Mamie (or Minnie) Hudson (as Mamie Brown), Alice Brown, George Brown, Susie Brown, Caswell M. Brown (as Caswell Marion Brown), Maudie Brown, Willie Brown, Polly A. Peck (as Polly Ann Peck), Florence Peck, Oscar Peck, Benjamin Peck (as Benjamin Grant Peck), Andrew Peck, George G. Brown, Willie Emma Brown, James E. Nichols (as James Bruton Nichols), Della May Scott (as Dell May Nichols), Nancy E. Nichols (as Nancy Valmor Nichols), Orin M. Nichols (as Orin Mayberry Nichols), James W. Nichols (as James Willis Nichols), Maggie M. Nichols (as Maggie May Nichols), Nettie Myrtle Nichols (as Myrtle Nichols), and Lonie A. Nichols (as Lonie Alta Nichols), as citizens by blood of the Choctaw Nation, and William B. Brown (as William Ruford Brown), Andrew J. Peck (as Andrew Jackson Peck), and Nancy C. Nichols (as Nancy Caroline Nichols), as citizens by intermarriage of said nation, and denied the applications for the admission of Nancy J. Brown (as Nancy Jane Brown), Sarah Brown, and Amanda M. Nichols (as Amanda Melvina Nichols), as citizens by intermarriage of the Choctaw Nation. The name of the applicant, Susie Brown, was interpolated in the judgment of said court, she not having been an applicant before the Commission to the Five Civilized Tribes in 1896.

On March 12, 1898, said case again came before said court upon a motion of the plaintiff's attorneys to correct the judgment of said court rendered December 20, 1897, and the court, thereupon, ordered said judgment corrected so as to admit the

applicants, Nancy J. Brown (as Nancy Jane Brown), Sarah Brown, Amanda M. Nichols (as Amanda Melvina Nichols), as citizens by intermarriage of the Cheateau Nation.

On September 28, 1898, said court rendered a supplemental judgment admitting Amanda Brown as a citizen by intermarriage of the Cheateau Nation.

On January 17, 1900, this cause again came before said court upon a motion of the defendant to strike out of the judgment theretofore rendered, certain names improperly admitted to citizenship, and said court being fully advised, ordered that the following names, Susan Brown, Andrew J. Peak as (Andrew Jackson Peak), Bettie McCarty (as Bettie Brown), and Bocky Brown, be stricken from said former judgment.

Subsequently, upon the representation of the plaintiffs' attorneys that certain persons who were original applicants were by oversight or mistake left out of the original judgment theretofore rendered, the court ordered that the applicants, Nancy J. Brown (as Nancy Jane Brown), Sarah Brown, Amanda Brown, Amanda M. Nichols and Rebecca R. Brown be admitted to citizenship in the Cheateau Nation.

It further appears from the records of said Commission that on December 17, 1902, the Cheateau and Chickasaw Citizenship Court, created under the provisions of the Act of Congress approved July 1, 1902 (32 Stats., 641), "set aside, annulled, vacated and held for naught" the aforesaid judgment of the United States Court for the Southern District of Indian Territory.

Thereafter, the record in the above case was certified to the Cheateau and Chickasaw Citizenship Court, for a trial de novo which court, on November 29, 1904, in the case entitled, "William

Neighton Brown, et al. vs. Choctaw and Chickasaw Nations" (Choctaw Chickasaw Citizenship Court Case No. 73, Fishomingo District), "ordered, adjudged and decreed that the petition of the plaintiffs, William Neighton Brown (or William Knighton Brown), Caswell Marion Brown, Polly Ann Peck (nee Brown), George E. Brown (or George G. Brown), Nancy Ellis Brown (or Nancy Alice Brown), Sarah Brown, Mary Brown, Mamie Brown (or Mamie Brown), Alice Brown, George Brown, Wendie Brown (or Maudie Brown), Willie Brown, Florence Peck, Oscar Peck, Benjamin Grant Peck, Andrew Peck, William Emma Brown (or Willie Emma Brown), James Burton Nichols, (or James Bruton Nichols), Oney Mayberry Nichols (or Orin Mayberry Nichols), John William Beffle Nichols, Della May Nichols, Nancy Valmer Nichols, James Willis Nichols, Maggie May Nichols, Myrtle Nichols, Lonie Alta Nichols, William Buford Brown, Nancy Caroline Nichols, Rebecca E. Brown (or Becky Brown), Rebecca C. Brown (or Rebecca Brown), Amanda Melvina Nichols, Amanda Brown, Nancy J. Brown (or Nancy Jane Brown), Sarah Brown, be denied, and that they be declared not citizens of the Choctaw Nation, and not entitled to enrollment as such citizens, and not entitled to any rights whatever flowing therefrom."

On December 12, 1904, orders were entered of record by the Commission to the Five Civilized Tribes dismissing the applications for the enrollment of Mary E. McGarty, William Herman Johnston, Minnie Gertrude Brown, Henry Witan Brown, Elbert Knightington Brown, Otis Dewey Peck, Virgie Peck, Louis Herman Nichols and Golda Ula Nichols as citizens by blood of the Choctaw Nation, and on March 18, 1906, an order was entered of record dismissing the application for the enrollment of Fannie G. Brown as a citizen by

blood of said nation. All of said applicants were dismissed for the reason that their parents through whom they claim their rights to enrollment as citizens by blood of the Choctaw Nation, had been denied by a decree of the Choctaw and Chickasaw Citizenship Court.

On December 12, 1904, orders were entered of record by the Commission to the Five Civilized Tribes dismissing the applications for the enrollment of Eli W. Brown, Bessie Nichols and Osa Nichols as citizens by intermarriage of the Choctaw Nation, for the reason that the persons through whom they claim their rights had also been denied by a decree of the Choctaw and Chickasaw Citizenship Court.

On March 30, 1905, the Commission to the Five Civilized Tribes denied the application for the enrollment of Susie Brown as a citizen by blood of the Choctaw Nation, and on April 6, 1905 (I. T. D. 3610-1905), the Department set aside said decision of the Commission and returned the record to this office for a full investigation upon its merits.

Under the regulations adopted by the Commissioner to the Five Civilized Tribes of January 2, 1905, there was filed on February 6, 1905, by Grace, Grace and Blackmore, of Ardmore, Indian Territory, attorneys for the petitioners, petitions praying that William B. Brown, Henry A. Brown, Minnie Hudson, Sarah Johnston, Oscar Lee Johnston, William Brown Johnston, Rebecca Brown, Minnie Gertrude Brown, MarynHiten Brown, Ruby Bill Brown, Eli W. Brown, Mary A. Johnston, Ray Lester Johnston, Edna A. Johnston, Rebecca McCarty, William A. McCarty, Mary E. McCarty, William E. Brown, Henry Jane Brown, George Brown, Alice Brown, Susie Brown, Clotus Brown, Clarence Brown, A. J. Peck, Felly Ann Peck, Minnie Peck, Oscar Sherman Peck, Benjamin Grant Peck, Andrew Peck, C. D. Peck,

Virgie Peck, Prubble Peck, C. M. Brown, Amanda Brown, Mandy Brown, William Brown, Elbert K. Brown, Annie Jewel Brown, George O. Brown, Sarah Brown, Willie Emma Brown, Cassie Brown, Goldie Brown, J. B. Nichols, Nancy Nichols, Delma Nichols, John W. B. Nichols, Beattie Deaton Nichols, Louis Herman Nichols, Golda Bula Nichols, Silva^{Jewel} Nichols, Della May Scott, Norma Scott, Grin M. Nichols, Amanda Nichols, Myrtle Nichols, Louis Nichols, James W. Nichols, Osa Nichols, Cera Lee Nichols and Maggie Angel be enrolled as citizens of the Choctaw Nation.

All of the above petitioners, with the exception of Ollie McCarty, Lita Lois Scott, Daphne Myrtle Nichols and Teddy Golden Johnston, are identical with the applicants for whom application has been made for enrollment as citizens of the Choctaw Nation.

On April 16, 1906, the principal petitioners, their attorneys, Grace, Gruse & Blackmore, of Ardmore, Indian Territory, and Messrs. Mansfield, McMurray & Cornish, attorneys for the Choctaw and Chickasaw Nations, of South McAlester, Indian Territory, were advised that the Commissioner to the Five Civilized Tribes would at his office at Muskogee, Indian Territory, on Monday, May 14, 1906, at nine o'clock A. M., hear such testimony and receive such other evidence as might be submitted by the petitioners in support of their applications for enrollment as citizens of the Choctaw Nation, and by the attorneys for the Choctaw and Chickasaw Nations.

On April 16, 1906, William H. Brown, father of Susie Brown, Grace, Gruse & Blackmore, attorneys for said Susie Brown, and Mansfield, McMurray & Cornish, attorneys for the Choctaw and Chickasaw Nations, were advised that on April 6, 1906, the Department set aside the decision rendered by the Commission on March 30, 1906, and returned the record in said case with in-

structions that a full investigation be made of the rights of said Susie Brown to enrollment as a citizen by blood of the Choctaw Nation; that the testimony of creditable witnesses be required showing her Choctaw blood, if any, the time and place of her birth, her various residences, her ancestors, the privileges, if any, enjoyed by her and her parents as citizens of the Choctaw Nation; and notified that the Commissioner to the Five Civilized Tribes would at his office at Muskogee, Indian Territory, on Monday, May 14, 1906, at nine o'clock A. M., hear such testimony and receive such other evidence as might be submitted in support of said application, investigation to be conducted along the lines indicated by Department letter above referred to.

On motion of Attorney for applicants, the hearing in the matter of the above application was continued on April 26, 1906, to May 21, 1906.

On May 21, 1906, proceedings were had in the matter of said applications in pursuance to the notices above mentioned.

It appears from the record herein that the applicants, William H. Brown, Cassell M. Brown, Felly Ann Peak, George G. Brown, Nancy A. Brown and Bettie McCarty, are the children of the principal applicant, William H. Brown, and Rebecca Cooper (now deceased), who is alleged to have been a Choctaw Indian, and the daughter of William Cooper, who was the son of Johnny Cooper, an alleged Choctaw Indian, who resided near the line between the states of Tennessee and Mississippi; that Sarah Johnston, Becky Brown, Mary Johnston, Mamie (or Minnie) Hudson, Alice Brown, George Brown, Susie Brown, Fannie G. Brown and Willie Clarence Brown, are the children of the applicants

William N. Brown and Nancy J. Brown, (the latter an applicant for intermarried rights); that William Brown, Oscar Lee and Teddy Golden Johnston are the children of the applicant, Sarah Johnston, and J. A. Johnston, a non-citizen; that Minnie Gertrude, Henry Witen and Mable Dill Brown are the children of the applicants, Becky Brown and Eli W. Brown, (the latter an applicant for intermarried rights); that Ray Lester and Edna Arvel Johnston are the children of the applicant, Mary Johnston, and Jacob J. Johnston, a non-citizen; that Maudie, Willie, Elbert Knightington, and Annie Jewell Brown are the children of the applicant, Caswell M. Brown and Amanda Brown (the latter an applicant for intermarried rights); that Florence, Oscar, Benjamin, Andrew, Otis Dewey Virgie and Probble Peck are the children of the applicant, Polly Ann Peck and Andrew J. Peck (the latter an applicant for intermarried rights); that Willie Nam, Cassie and Goldie Brown are the children of the applicants, George G. Brown and Sarah Brown (the latter an applicant for intermarried rights); that Mary Ethel, William A. and Ollie McCarty are the children of the applicant, Nettie McCarty, and Oliver McCarty, a non-citizen; that James E. Nichols and Orin M. Nichols are the children of Wilson Nichols (now deceased), a non-citizen, and Delitha Cooper (now deceased), who is alleged to have been a Choctaw Indian and the daughter of John Cooper, above referred to; that John W. B. Nichols, Della May Beett and Nancy E. Nichols are the children of the applicant, James E. Nichols and Nancy G. Nichols (the latter an applicant for intermarried rights); that Louis Herman, Golda Ula and Sylvie Jewel Nichols are the children of the applicant, John W. B. Nichols and Beanie Nichols (the latter an applicant for

intermarried rights); that Emma May and Lita Lois Scott are the children of the applicant, Della May Scott, and Burris Scott, a non-citizen; that James W., Maggie M., Nettie Myrtle and Louis A. Nichols are the children of the applicant, Erin M. Nichols and Amanda M. Nichols (the latter an applicant for intermarried rights); and that the applicant, Cora Lee and Daphne Myrtle Nichols, are the children of the applicants, James V. Nichols and Osa Nichols (the latter an applicant for intermarried rights).

The applicant, William B. Brown, claims his right to citizenship in the Choctaw Nation by the virtue of his marriage on February 10, 1858, under the laws of the state of Arkansas, to Becky Cooper (now deceased); that Nancy Brown claims her right to enrollment as a citizen by intermarriage by virtue of her marriage to the applicant, William B. Brown, on September 21, 1879; that Eli W. Brown claims his right to enrollment as a citizen by intermarriage by virtue of his marriage on August 21, 1899, under the laws, customs and usages of the Chickasaw Nation to the applicant, Becky Brown, both of said applicants being at said time residents in good faith of the Chickasaw Nation; that Amanda Brown claims her right to enrollment as a citizen by intermarriage by virtue of her marriage on December 2, 1886, to the applicant, Caswell M. Brown; that Andrew J. Peck claims his right to enrollment as a citizen by intermarriage by virtue of his marriage on December 14, 1887, under the laws of the state of Arkansas to the applicant, Polly A. Peck; that Sarah Brown claims her right to enrollment as a citizen by intermarriage by virtue of her marriage to George G. Brown on June 9, 1898; that the applicant, Nancy G. Nichols, claims her right to enrollment as a citizen by intermarriage by virtue of her marriage to the applicant, James B.

Nichols, on March 9, 1873; that the applicant, Bessie Nichols, claims her right to enrollment as a citizen by intermarriage by virtue of her marriage on September 11, 1898, to the applicant, John W. B. Nichols; that Amanda M. Nichols claims her right to enrollment as a citizen by intermarriage by virtue of her marriage on October 20, 1878, to the applicant, Orin M. Nichols; and that Osa Nichols claims her right to enrollment as a citizen by intermarriage by virtue of her marriage on April 27, 1899, to the applicant, James W. Nichols.

It does not appear from the record herein or from the records in the possession of this office that the applicant, Andrew J. Peck, has ever been admitted to Choctaw citizenship by a duly constituted court or committee of the Choctaw Nation, nor has said applicant ever been married to Polly Ann Peck, through whom he claims his intermarried rights, by virtue of a license issued by the tribal authorities of either the Choctaw or Chickasaw Nation.

At the hearing before the Commissioner to the Five Civilized Tribes on May 21, 1906, William H. Brown, Gaswell H. Brown, James B. Nichols and Orin M. Nichols testified that in 1894, they, together with the other applicants herein who were living at said time, petitioned the Choctaw Council for admission as citizens of the Choctaw Nation; that no action having been taken thereon, they, in 1895, appeared before the Choctaw Census Commission and made application to be enrolled upon the 1896 Choctaw Census Roll; and that some time in January, 1897, they received a certificate from the Secretary of the Choctaw Registry Board, wherein it appeared that they had been enrolled upon the 1896 Choctaw Census Roll. Said applicants further testified

that prior to 1896 they had been permitted to issue permits for their tenants, hold lands, and were not subject to any tribal tax which was due from all non-citizens who were engaged in the mercantile business.

On June 4, 1906, John H. Gumbelin testified that he was acquainted with the applicants herein, and that in October, 1894, he having business before the Choctaw Council, presented on behalf of the applicants herein who were living at that time, a petition praying that they be admitted as citizens of the Choctaw Nation, and that he does not know what action, if any, was ever taken thereon.

Upon an examination of the tribal rolls of the Choctaw Nation in the possession of this office, it appears that the applicants, William B. Brown, William E. Brown, Nancy J. Brown, Caswell M. Brown, Amanda Brown, Folly Ann Peck, Andrew J. Peck, George G. Brown, Sarah Brown, Nancy A. Brown, Bettie McCarty, Sarah Johnston, Becky Brown, Mary Johnston, Minnie (or Minnie) Hinson, Alice Brown, George Brown, Basie Brown, Maudie Brown, Willie Brown, Florence Peck, Oscar Peck, Benjamin Peck, Andrew Peck, James E. Nichols, Nancy C. Nichols, Grim M. Nichols, Amanda M. Nichols, John W. E. Nichols, Della May Scott, Nancy V. Nichols, James E. Nichols, Maggie E. Nichols, Nettie Myrtle Nichols and Lemie A. Nichols, are identified upon the 1896 Choctaw Census Roll opposite numbers 1688, 1691, 1692, 1701, 1702, 16818, 16817, 1705, 1706, 1689, 1690, 1692, 1694, 1695, 1696, 1697, 1698, 1699, 1702, 1704, 16819, 16820, 16821, 16822, 9803, 9804, 9812, 9813, 9809, 9810, 9811, 9814, 9815, 9816 and 9817, respectively.

It further appears from the record herein that all of

the applicants, that were living on June 28, 1898, were residents in good faith of the Indian Territory on said date.

The evidence in this case further shows that the applicant, Daphne Myrtle Nichols, died on June 27th 1901.

I am of the opinion that in accordance with the opinions of the Assistant Attorney General for the Department of the Interior of February 10, 1905 (I. T. D. 10353-1904) and December 8, 1905 (I. T. D. 2493-1905), in the case of Lula West, the action of the Commission to the Five Civilized Tribes, and the subsequent action of the United States Court for the Southern District of Indian Territory, and the Choctaw and Chickasaw Citizenship Court, upon the right of the applicants who applied to the Commission to the Five Civilized Tribes in 1896, with the exception of Andrew J. Peck, was without authority of law, and of no force and effect upon the status of said applicants as citizens of the Choctaw Nation.

I am further of the opinion that the orders of the Commission to the Five Civilized Tribes of December 12, 1904 and March 18, 1905, dismissing the applications for the enrollment of Mary E. McCarty, William Brown Johnston, Minnie Gertrude Brown, Fannie C. Brown, Henry Niles Brown, Elbert Haightington Brown, Otis Dewey Peck, Virgie Peck, Louis Herman Nichols and Golda Ella Nichols as citizens by blood of the Choctaw Nation, and Eli W. Brown, Beasie Nichols and Ova Nichols as citizens by intermarriage of the Choctaw Nation, should be rescinded.

I am further of the opinion that in accordance with the opinions of the Assistant Attorney General for the Department of the Interior of March 1, 1906 (I. T. D. 187-1905) and March 10,

1906 (I. T. D. 9969-1906), Nancy A. Brown, Bettie McCarty, Mary Ethel McCarty, William W. Brown, Sarah Johnston, Becky Brown, Mary Johnston, Mamie (or Minnie) Hudson, Alice Brown, George Brown, Samie Brown, William Brown Johnston, Minnie Gertrude Brown, Henry Niton Brown, Fannie G. Brown, Cassell M. Brown, Mamie Brown, Willie Brown, Elbert Knightington Brown, Polly A. Peak, Florence Peak, Oscar Peak, Benjamin Peak, Andrew Peak, Otis Dewey Peak, Virgie Peak, George G. Brown, Willie Emma Brown, James B. Nichols, Della May Scott, Nancy V. Nichols, John W. E. Nichols, Louis Herman Nichols, Golda Ula Nichols, Orin M. Nichols, James W. Nichols, Maggie M. Nichols, Nettie Myrtle Nichols and Louis A. Nichols should be enrolled as citizens by blood of the Choctaw Nation, under the provisions of the Acts of Congress approved June 23, 1896 (30 Stats., 495) and July 1, 1902 (32 Stats., 641), and it is so ordered.

I am further of the opinion that William E. Brown, Nancy Brown, Eli W. Brown, Amanda Brown, Sarah Brown, Nancy G. Nichols, Bessie Nichols, Amanda M. Nichols and Osa Nichols should be enrolled as citizens by intermarriage of the Choctaw Nation, under the provisions of the Acts of Congress approved June 23, 1896 (30 Stats., 495) and July 1, 1902 (32 Stats., 641), and it is so ordered.

I am further of the opinion that the application made for the enrollment of Andrew J. Peak as a citizen by intermarriage of the Choctaw Nation should be denied, under the provisions of the Act of Congress approved June 23, 1896 (30 Stats., 495), and it is so ordered.

I am further of the opinion that William A. McCarty, Ollie McCarty, Oscar Lee Johnston, Willie Clarence Brown, Ray

Lester Johnston, Edna Arvel Johnston, Teddy Golden Johnston,
Ethel Hill Brown, Annie Jewell Brown, Probable Peck, Cassie
Brown, Goldie Brown, Emma May Scott, Lita Lela Scott, Myrtle
Jewel Nichols and Cora Lee Nichols should be enrolled as citizens
by blood of the Choctaw nation, under the provisions of the Act
of Congress approved April 26, 1906 (Public No. 129), and it
is so ordered.

I am further of the opinion that the application made
for the enrollment of Daphne Myrtle Nichols as a citizen by blood
of the Choctaw Nation should be dismissed, and it is so ordered.

COMMISSIONER.

Muskogee, Indian Territory.

Aug. 12, 1906.

7-5060

COPY

Muskogee, Indian Territory, August 13, 1906.

Mamie Hudson,

Comanche, Indian Territory.

Dear Madam:

Inclosed herewith you will find a copy of the decision of the Commissioner to the Five Civilized Tribes, rendered August 13, 1906, granting your application for enrollment as a citizen by blood of the Choctaw Nation.

The decision, with the record of proceedings in the case, is this day transmitted to the Secretary of the Interior for review. The final decision of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

SIGNED

Commissioner.

Registered.

HAH 2/13

SPECIAL.

J.P.

DEPARTMENT OF THE INTERIOR,

WASHINGTON.

THE
January 15, 1907.

D.C. 2920-1907.
I.T.D 25868-1906.
818-1907.

IRS

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

Referring to departmental letters of January 9 and 14, 1907, in the matter of the applications for the enrolment of Mattie Shockley et al., as citizens by blood of the Choctaw Nation, you are advised that by direction of the President the case will be submitted to the Attorney-General for his opinion. You will suspend action relative to these claimants until further advised.

Respectfully,

Thos Ryan

First Assistant Secretary.

1
D.O.W.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

1
J.W.H.
W.C.H.
J.W.L.

GW
File-S-51.

March 1, 1909.

The Commissioner
to the Five Civilized Tribes.

Sir:

January 25, 1909, you were advised that the names of certain persons were inadvertently included in Departmental letter of January 15, 1909 (File S-51); that such mistake was due to the fact that it was supposed they were enrolled upon schedules approved by the Department, when in fact, the only schedules upon which their names appear were disapproved, and that no action should be taken under the circumstances looking to the erasure of interlineations or notations, if any, from the disapproved schedules, in connection with their names.

The names of the persons referred to in said letter of January 25, 1909, are as follows:

Shawnee by Blood.

Roll No.

16103

Elizabeth Allen.

16112

George A. Dugger.

16119

Louisia Grutchfield.

16124

Berrett Grutchfield.

16111	George W. Grutchfield.
16108	Ida Grutchfield.
16107	Tom Grutchfield.
16106	Louvinia Grutchfield.
16109	William Grutchfield.
921	Josephine Laflere Long.
922	Jake Laflere Long.
16104	David Ritter.

It now appears from the records of the Secretary's Office that there was a schedule approved May 21, 1904, by the Secretary of the Interior, and that the approval then given was cancelled by said Secretary at a later date, to-wit, June 28, 1904.

The name of Elizabeth Allen appears upon the schedule which was approved May 21, 1904, opposite the number 18851. Ida Grutchfield's name appears opposite No. 18853, while the other members of the Grutchfield family were given the numbers immediately following that assigned to her.

You are requested to cause a report to be prepared showing whether the records of your office also show that an earlier schedule containing the names of said persons was approved May 21, 1904; also whether such approval was cancelled June 28, 1904. Please report also the reason for the attempted cancellation, and whether prior notice was given thereof.

It appears further that, in connection with the names of Elizabeth Allen and the Gratchfield family on the roll approved May 21, 1904, the names of Ardella Nickman, Ida M. Southard and Grover Randall are also to be found.

In connection with said names, it is desired that you will report what action, in your opinion, should be taken concerning the first of said persons; also whether the said Ida M. Southard and Grover Randall, respectively, are identical with the Ida M. Southard whose name appears opposite No. 15880 in the printed rolls of citizens by blood of the Choctaw Nation, and the Grover Randall whose name appears on page 3 of Departmental letter of January 19, 1906 (File 5-51), opposite No. 15922.

As appears from the above list, there were other persons besides the said Allen and Gratchfields whose names were enrolled on schedules which were finally disapproved by the Department: for example, George A. Buegarner, Josephine Laflere Long and Jake Laflere Long.

Please report whether the names of these persons appear upon any prior approved schedule; also why it was that the Commissioner to the Five Civilized Tribes enrolled them upon the schedule which was disapproved by the Department, showing whether the Commissioner enrolled them thereon, of his own motion, or under decision or instructions from the Department.

By comparison of the roll approved May 21, 1904, with the printed rolls of Choctaws by blood, the Department

finds that the numbers appearing thereon opposite the names of said persons were subsequently assigned to other citizens of the Choctaw Nation; thereby the series of roll numbers was kept perfect, but a material portion of the rolls was evidently sacrificed upon the supposition that it had become worthless. Inquiry arises in this connection as to whether there were other approved schedules which were subsequently disapproved and thrown aside. Accordingly, it is desired that you also cause a report to be prepared covering this feature of the matter, showing all persons embraced in similar cases, with recommendation as to what action should be taken as to them. This will necessitate a statement as to why their names were stricken or cancelled from the rolls, and whether such action was taken without prior notice.

There is still another matter concerning which the Department desires report to be made. It is observed that the words "No person enrolled at this number" are to be found not infrequently opposite consecutive numbers on the pages of the printed rolls; and you are requested to advise the Department whether such words were substituted for the names of individuals appearing on disapproved schedules, and if such is the case, whether such disapproved schedules were approved at any time by the Department; also whether favorable decisions were ever rendered by the Department as to such persons prior to their enrollment upon such disapproved schedules.

For the sake of expedition, a partial report should be rendered at once concerning the said Elizabeth Allen and the various members of the Crutchfield family named above. The other matters referred to herein may be disposed of by subsequent reports.

Very respectfully,

Jesse B. Wilson,

Assistant Secretary.

Through the

Indian Office.

Land
66222-02
17077-00

JFR

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON, D. C., Mar. 5, 00.

Respectfully referred to the Commissioner
to the Five Civilized Tribes, for
appropriate action.

John Francis, Jr.
Acting Chief Land Division.

1 letter dated Mar. 1, 00.

D 460-1909

Muskogee, Oklahoma, April 20, 1909.

Subject:

Requesting report relative
to petition of Wm. B. Brown
et al. for enrollment as
citizens of the Choctaw
Nation.

The Honorable,

The Secretary of the Interior,

Sir:

Receipt is hereby acknowledged of Indian Office letter of April 9, 1909 (Land 23090-1909) transmitting petition of Wm. B. Brown, et al. for enrollment as citizens of the Choctaw Nation. This office is also requested to report specially whether the names of any of the persons in this petition appeared upon any tribal rolls of the Choctaw Nation or upon any roll prepared by the Commission to the Five Civilized Tribes and approved by the Secretary of the Interior.

March 1, 1909, the Department also addressed a letter to this office requesting reports as to all persons whose names may have been upon disapproved schedules and at whose numbers in the printed rolls appears the notation "No person enrolled at this number."

Secretary 2

The case of William B. Brown is one of the cases referred to in Departmental letter of March 1, 1909 and the report is made to the Secretary of the Interior, through the Indian Office, with the view of complying with both requests.

I have the honor to report as follows, relative to the case of William B. Brown and the other members of his family who were included in the decision in the consolidated Choctaw case of William B. Brown, et al.:

It appears from the records of this office that on September 9, 1896, in the case entitled Nancy Cooper et al. versus the Choctaw Nation, 1896 Choctaw Citizenship Case Number 1418, original application was made to the Commission to the Five Civilized Tribes, under the provisions of the Act of Congress approved June 10, 1896 (29 Stat., 321), for admission to citizenship in the Choctaw Nation of the applicants, Nancy A. Brown (as Nancy Alice Brown), Bettie McCarty (as Rebecca Elizabeth Brown), William W. Brown (as William Witen Brown), Sarah Johnston (as Sarah Elizabeth Brown), Becky Brown (as Rebecca Catherine Brown), Mary Brown (as Mary Arrillie Brown), Mamie (or Minnie) Handson (as Minnie Ann Brown), Alice Brown, George Brown (as George Montgomery Brown), Caswell M. Brown, Maudie Brown (as Mandy E. Brown), Willie Brown (as William C. Brown), Pelly A. Peck (as Pelly Ann Peck), Florence

Secretary 3

Peck (as Minnie F. Peck), Oscar Peck (as Oscar S. Peck), Benjamin Peck (as Benjamin G. Peck), Andrew Peck, George G. Brown, Willie Emma Brown, James B. Nichols, (as James Bruton Nichols), Della May Scott (as Mary Della May Nichols), Nancy V. Nichols (as Hannie Velma Nichols), John W. B. Nichols (as John William Bethuel Nichols), Orin M. Nichols (as Orrin Mayberry Nichols), James W. Nichols (as James Willis Nichols), Maggie M. Nichols (as Maggie May Nichols), Mattie Myrtle Nichols, Lonie A. Nichols (as Lona Alta Nichols), as citizens by blood, and for the admission of William B. Brown, Nancy J. Brown (as Nancy Jane Brown), Amanda Brown, Andrew J. Peck (as A. J. Peck), Sarah Brown, Nancy C. Nichols (as Nancy Caroline Nichols), and Amanda M. Nichols (as Amanda Melvina Nichols), as citizens by intermarriage of said nation; and that on December 8, 1896, said Commission rendered its decision denying the applications for citizenship of the above named persons.

From this decision of the Commission an appeal was taken to the United States Court for the Southern District of Indian Territory, which court on December 20, 1897, in the case entitled Nancy J. Cooper, et al. versus the Choctaw Nation, Case Number 96 on the Citizenship Docket, admitted Nancy A. Brown (as Nancy Alice Brown), Bettie McCarty (as Bettie Brown), Sarah Johnston (as Sarah Brown), Becky Brown,

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Mary Brown , Mamie (or Minnie) Hudson (as Mamie Brown), Alice Brown, George Brown, Sisie Brown, Caswell M. Brown (as Caswell Marion Brown), Maudie Brown, Willie Brown, Polly A. Peck (as Polly Ann Peck), Florence Peck, Oscar Peck, Benjamin Peck (as Benjamin Grant Peck), Andrew Peck, George G. Brown, Willie Emma Brown, James B. Nichols (as James Bruton Nichols), Della May Scott (as Dell May Nichols), Nancy V. Nichols (as Nancy Velmor Nichols), Orin M. Nichols)(as Orin Mayberry Nichols), James W. Nichols (as James Willis Nichols), Maggie M. Nichols (as Maggie May Nichols), Mettie Myrtle Nichols (as Myrtle Nichols, and Lonie A. Nichols (as Lonie Alta Nichols) as citizens by blood of the Choctaw Nation, and William B. Brown (as William Bluford Brown), Andrew J. Peck (as Andrew Jackson Peck), and Nancy C. Nichols (as Nancy Caroline Nichols) as citizens by intermarriage of said nation, and denied the applications for the admission of Nancy J. Brown (as Nancy Jane Brown), Sarah Brown and Amanda M. Nichols (as Amanda Malvina Nichols) as citizens by intermarriage of the Choctaw Nation. The name of the applicant, Sisie Brown, was interpolated in the judgment of said court, she nothaving been an applicant before the Commission to the Five Civilized Tribes in 1896.

March 18, 1898, this case again came before the United States Court upon a motion of the plaintiffs' attorneys to

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correct the judgment of said court rendered December 20, 1897, and the court thereupon ordered said judgment corrected so as to admit the applicants, Nancy J. Brown (as Nancy Jane Brown), Sarah Brown, Amanda M. Nichols (as Amanda Melvina Nichols) as citizens by intermarriage of the Choctaw Nation.

September 28, 1898, said court rendered a supplemental judgment admitting Amanda Brown as a citizen by intermarriage of the Choctaw Nation.

January 17, 1900, this cause again came before the court upon a motion of the defendant to strike out of the judgment theretofore rendered certain names improperly admitted to citizenship, and the court ordered that the names of Susie Brown, Andrew J. Peck (as Andrew Jackson Peck), Bettie McCarty (as Bettie Brown), and Becky Brown be stricken from said former judgment.

Subsequently, upon the representation of the plaintiffs' attorneys that certain persons who were original applicants were by oversight or mistake left out of the original judgment theretofore rendered, the court ordered that the applicants, Nancy, JANE Brown (as Nancy Jane Brown), Sarah Brown, Amanda Brown, Amanda M. Nichols and Rebecca E. Brown be admitted to citizenship in the Choctaw Nation.

December 17, 1902, the Choctaw and Chickasaw Citizenship

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Court, created under the provisions of the Act of Congress approved July 1, 1902 (32 Stat., 641), "set aside, annulled, vacated and held for naught" the aforesaid judgment of the United States Court for the Southern District of the Indian Territory.

The record in this case was subsequently certified to the Choctaw and Chickasaw Citizenship Court for a trial de novo, which court, November 29, 1904, in the case entitled William Heighton Brown, et al. versus the Choctaw and Chickasaw Nations, Number 73 on the Tishomingo Docket, ordered, adjudged and decreed that the petition of the plaintiffs be denied and that they be declared not citizens of the Choctaw Nation, and not entitled to enrollment as such citizens, and not entitled to any rights whatever flowing therefrom.

December 12, 1904, orders were entered of record by the Commission to the Five Civilized Tribes dismissing the applications for the enrollment of Mary E. McCarty, William Erman Johnston, Minnie Gertrude Brown, Henry Hiten Brown, Elbert Knightington Brown, Otis Dwey Peck, Virgie Peck, Louie Herman Nichols and Golda Ula Nichols as citizens by blood of the Choctaw Nation and March 18, 1905, and order was entered of record dismissing the application for the enrollment of Fannie C. Brown as a citizen by blood of said nation.

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for the reason that the parents of these children had been denied by a decree of the Choctaw and Chickasaw Citizenship Court.

December 12, 1904, orders were entered of record by the Commission dismissing the applications for the enrollment of Eli W. Brown, Bessie Nichols and Osa Nichols as citizens by intermarriage of the Choctaw Nation for the reason that the persons through whom they claimed their rights had been denied by a decree of the Choctaw and Chickasaw Citizenship Court.

March 30, 1905, the Commission to the Five Civilized Tribes denied the application for the enrollment of Susie Brown as a citizen by blood of the Choctaw Nation, and on April 6, 1906 (I T D 3810-1905) the Department set aside this decision of the Commission and returned the record to this office for investigation upon its merits.

Under the regulations adopted by the Commissioner to the Five Civilized Tribes of January 2, 1906, there were filed on February 6, 1906, by Cruce, Cruce & Bleakmore, attorneys for the petitioners, Ardmore, Indian Territory, petitions praying that William B. Brown, Nancy A. Brown, Minnie Hudson, Sarah Johnston, Oscar Lee Johnston, William Erman Johnston, Rebecca Brown, Minnie Gertrude Brown, Henry

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Niten Brown, Rubie Hill Brown, Eli W. Brown, Mary A. Johnston, Roy Lester Johnston, Mina A. Johnston, Rebecca McCarty, William A. McCarty, Mary E. McCarty, William H. Brown, Nancy Jane Brown, George Brown, Alice Brown, Susie Brown, Oletus Brown, Clarence Brown, A. J. Peck, Polly Ann Peck, Minnie Peck, Oscar Sherman Peck, Benjamin Grant Peck, Andrew Peck, O. D. Peck, Virgie Peck, Prebble Peck, C. M. Brown, Amanday Brown, Mandy Brown, William Brown, Elbert K. Brown, Annie Jewel Brown, George G. Brown, Sarah Brown, Willie Emma Brown, Cassie Brown, Goldie Brown, J. B. Nichols, Nancy Nichols, Belma Nichols, John W. B. Nichols, Bessie Eaton Nichols, Louie Herman Nichols, Golda Kula Nichols, Silva Jewel Nichols, Della May Scott, Nema Scott, Orin M. Nichols, Amanda Nichols, Myrtle Nichols, Lonie Nichols, James W. Nichols, Osa Nichols, Cora Lee Nichols and Maggie Angel be enrolled as citizens of the Choctaw Nation.

April 16, 1906, the principal petitioners, their attorneys of record and the attorneys for the Choctaw and Chickasaw Nations, were advised that a hearing would be had in this matter at the office of the Commissioner to the Five Civilized Tribes, Muskogee, Indian Territory, Monday, May 14, 1906, at nine o'clock A. M. and on the same date, William H. Brown, father of Susie Brown, Grace, Grace & Bleakmore, and Mans-

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field, McMurray & Cornish, were advised that on April 6, 1906, the Department had set aside the decision of the Commission to the Five Civilized Tribes of March 30, 1905, and returned the record with instructions that a full investigation be made of the rights of the said Susie Brown to enrollment as a citizen by blood of the Choctaw Nation, and that such testimony and evidence would be received at the date of the hearing on the petition.

On motion of attorneys for applicants the hearing was continued until May 21, 1906, on which date proceedings were had in the matter of said petition in pursuance to the notices above mentioned.

At the hearing William N. Brown, Oswell M. Brown, James B. Nichols and Orin M. Nichols testified that in 1894, they, together with the other applicants herein who were living at that time, petitioned the Choctaw Council for admission as citizens of the Choctaw Nation; that no action having been taken by the Council as to their case they, in 1896, appeared before the Choctaw Census Commission and made application to be enrolled upon the 1896 Choctaw Census Roll; that some time in January, 1897, they received a certificate from the Secretary of the Choctaw Revisory Board, wherein it appeared that they had been enrolled upon the 1896 Choctaw Census Roll.

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It appears that the applicants, William B. Brown, William H. Brown, Nancy J. Brown, Caswell M. Brown, Amanda Brown, Fanny Ann Peck, Andrew J. Peck, George G. Brown, Sarah Brown, Nancy A. Brown, Bettie McCarty, Sarah Johnston, Becky Brown, Mary Johnston, Mamie (or Minnie) Hudson, Alice Brown, George Brown, Susie Brown, Maudie Brown, Willie Brown, Florence Peck, Oscar Peck, Benjamin Peck, Andrew Peck, James B. Nichols, Nancy C. Nichols, Orin M. Nichols, Amanda M. Nichols, John W. B. Nichols, Della May Scott, Nancy V. Nichols, James W. Nichols, Maggie M. Nichols, Nettie Myrtle Nichols and Lonie A. Nichols are identified upon the 1896 Census Roll of the Choctaw Nation, Blue County.

August 13, 1906, the Commissioner to the Five Civilized Tribes rendered a decision, in accordance with the opinion of the Assistant Attorney General for the Department of the Interior of February 10, 1905 (I T D 10353-1904) and December 8, 1905 (I T D 3693-1905) in the case of Lula West, holding that the action of the Commission to the Five Civilized Tribes and the subsequent action of the United States Court for the Southern District of Indian Territory and the Choctaw and Chickasaw Citizenship Court upon the right of the applicants who applied to said Commission in 1896, with the exception of Andrew J. Peck, was without authority of law,

Secretary 11

and of no force and effect upon the status of said applicants as citizens of the Choctaw Nation.

He also rescinded the orders of the Commission to the Five Civilized Tribes of December 12, 1904, and March 18, 1905, dismissing the applications for the enrollment of Mary E. McCarty, William Erman Johnston, Minnie Gertrude Brown, Fannie C. Brown, Henry Witen Brown, Elbert Knightington Brown, Otis Dewey Peck, Virgie Peck, Louis Herman Nichols and Gelda Ula Nichols as citizens by blood of the Choctaw Nation and Eli W. Brown, Bessie Nichols and Osa Nichols as citizens by intermarriage of the Choctaw Nation.

The Commissioner to the Five Civilized Tribes further held, in accordance with the opinions of the Assistant Attorney General for the Department of the Interior of March 3, 1905 (I T D 187-1905) and March 10, 1906 (I T D 9969-1905) that Nancy A. Brown, Bettie McCarty, Mary Ethel McCarty, William N. Brown, Sarah Johnston, Becky Brown, Mary Johnston, Mamie (or Minnie) Hudson, Alice Brown, George Brown, Esie Brown, William Erman Johnston, Minnie Gertrude Brown, Henry Witen Brown, Fannie C. Brown, Cassell M. Brown, Maudie Brown, Willie Brown, Elbert Knightington Brown, Polly A. Peck, Florence Peck, Oscar Peck, Benjamin Peck, Andrew Peck, Otis Dewey

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Peck, Virgie Peck, George G. Brown, Willie Emma Brown, James B. Nichols, Della May Scott, Nancy V. Nichols, John W. B. Nichols, Louie Herman Nichols, Golda Ula Nichols, Orin M. Nichols, James W. Nichols, Maggie M. Nichols, Nettie Myrtle Nichols, and Lonie A. Nichols should be enrolled as citizens by blood and William B. Brown, Nancy Brown, Eli W. Brown, Amanda Brown, Sarah Brown, Nancy C. Nichols, Bessie Nichols, Amanda M. Nichols and Osa Nichols as citizens by intermarriage of the Choctaw Nation under the provisions of the Acts of Congress approved June 28, 1898 (30 Stat., 495) and July 1, 1902 (32 Stat., 641).

The applications for the enrollment of William A. McCarty, Ollie McCarty, Oscar Lee Johnston, Willie Clarence Brown, Roy Lester Johnston, Edna Arvel Johnston, Teddy Golden Johnston, Rubie Dill Brown, Annie Jewell Brown, Prebble Peck Cassie Brown, Goldie Brown, Wema May Scott, Lita Lois Scott, Sylvie Jewel Nichols and Cora Lee Nichols were also granted under the provisions of the Act of Congress approved April 26, 1906 (34 Stat., 137).

The application for the enrollment of Andrew J. Peck as a citizen by intermarriage was denied and the application for the enrollment of Daphne Myrtle Nichols as a citizen by blood of the Choctaw Nation was dismissed.

Secretary 13

August 14, 1906, the record in this case, together with the decision of August 13, 1906, was transmitted to the Department.

February 7, 1907, there were transmitted to the Secretary of the Interior schedules of citizens by blood and marriage of the Choctaw Nation containing the names of the persons who were favorably passed upon by the Commissioner to the Five Civilized Tribes August 13, 1906, in the Choctaw enrollment case of William B. Brown, et al., as follows:

Citizens by blood . . .	Nos. 1611 to 16159, inclusive.
Citizens by marriage / .	Nos. 1638 to 1645, inclusive.
Minor citizens by blood	Nos. 857 to 872, inclusive.

This case was analogous to the case of Mattie Shookley, et al. (Loula West case) in which this office had been directed to suspend action until the Attorney General had passed upon the questions involved in that case, but inasmuch as the time within which persons could be enrolled and their enrollment approved by the Secretary of the Interior under the provisions of the Act of Congress approved April 26, 1906, was becoming very short, the schedules above described were prepared by this office without waiting for the opinion of the Attorney General and were forwarded to the Department in order that, if the opinion of the Attorney General were favorable, the rights of these applicants might be protected without

Secretary 24

delay, and this office requested, in the event of such favorable opinion of the Attorney General, that these schedules be approved by the Secretary of the Interior.

February 26, 1907, referring to Departmental letter of February 23, 1907 (I T D 4564-1907) requesting this office to forward a list of those persons whose enrollment should be cancelled in view of the opinion of the Attorney General of February 19, 1907, in the Choctaw enrollment cases of Loula West and William C. Thompson, the Commissioner to the Five Civilized Tribes called the attention of the Department to the schedules above described which were forwarded February 7, 1907, and advised that this case was analogous to the case of Loula West. It was, therefore, recommended that the decision of August 13, 1906, be not approved by the Department and that the schedules transmitted with office letter of February 7, 1907, be disapproved by the Secretary of the Interior.

February 28, 1907 (Land 71868-1906, 2220, 14412-1907) the Indian Office forwarded to the Department the record in the case of William B. Brown, et al. together with the schedules transmitted February 7, 1907, and recommended, in view of the opinion of the Attorney General of February 19, 1907, that the decision of the Commissioner of August 13, 1906, in

Secretary 15

so far as it was favorable to the applicants, be reversed and the schedules disapproved, which was done by the Department March 1, 1907 (I T D 5742-1907).

This office has no record of any favorable decision of the Department as to the persons included in this consolidated case.

No formal allotments were made to the persons included in this case but applications were made on their behalf for certain lands which were involved in Chickasaw contest cases. Subsequent to March 4, 1907, these contests were dismissed and on August 31, 1907, a motion to reinstate said contests was denied.

August 29, 1907, the Department advised this office that by letter of August 5, 1907, counsel for the claimants in the case of William B. Brown, et al. requested that the order of the Department of June 14, 1907, in the case of William C. Thompson and others, suspending action on claims to allotments of lands be made applicable to them.

September 20, 1907, this office reported that it did not appear that the claimants in the case of William B. Brown, et al. possessed the same status as the claimants in the case of William C. Thompson, et al. as their names had never been upon an approved roll, but that it appeared they occupied

Secretary 16

the same status as the persons included in the case of John H. Gamblin and the case of Angus A. Spring.

October 12, 1907 (I T D 77893-1907) the Indian Office held that the action of the Commissioner to the Five Civilized Tribes in dismissing the contests on behalf of these claimants, and in refusing to reinstate the same, was proper and recommended that he be advised that all applications for allotments on behalf of these persons should be denied and this recommendation was approved by the Department October 14, 1907.

Following these instructions of the Department the lands in contest were awarded to the contestees, and patents therefor were recorded and delivered to them. It is believed, therefore, that these persons, in the event of a favorable decision relative to their enrollment, could not recover the land referred to, and if they are holding or claiming other land this office has no record of such claim.

If they are now in possession of other lands in the Choctaw and Chickasaw Nations, this office will, however, upon the receipt of descriptions thereof, make a record of their claim to the land, pending further action by the Department.

I have further to report that the record in this case is full and complete and it is believed the applicants could

Secretary 17

add nothing material thereto at this time, and that it would work an unjustifiable hardship upon them to notify them now to appear and give further testimony in this case and force upon them the expense of a hearing at this office.

I have not, therefore, forwarded the notices referred to in Departmental letter of March 15, 1909 and Indian Office letter of April 9, 1909, but will await specific instructions from the Department as to its wishes in the matter in accordance with my request of April 14, 1909, in the Mattie Shockley case.

If it is the desire of the Department that notices be forwarded in this case, however, this office will proceed to notify the applicants thereof immediately upon receipt of advice from the Department and will make supplemental report after their replies have been received.

The petition inclosed with Indian Office letter of April 9, 1909, is herewith returned.

Respectfully,

Through the Commissioner
of Indian Affairs.

Commissioner.

AB

1-12903

Land
31790-1909
J.E.D

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS
Washington.

Jun 25, 1909

Enrollment case of
Wm. B. Brown et al.

The Commissioner

to the Five Civilized Tribes,
Muskogee, Oklahoma.

Sir:

Referring to your report of April 20, 1909, relative to the consolidated Choctaw enrollment case of William B. Brown et al., you are advised, that on June 15, 1909, the Department held that the case mentioned was not analogous to that of John E. Goldsby, and did not come within the principles announced by the Supreme Court of the United States in that case, (211 U. S. 249). The Department, therefore declined to take any action looking to the enrollment of any of the applicants in the consolidated case of William B. Brown et al.

A copy of approved Office letter of May 17, 1909, is inclosed for your further information.

You are requested to notify the parties in interest.

Very respectfully,

J. H. Dortch,
Acting Chief Clerk,

MRH-19
2538.

D-7339

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS.
Washington.

G.R.
J.V.
J.F. Jr.
W.R.L.

Land
31790-1909
J E D

Enrollment case of
Wm. B. Brown et al.

May 17, 1909

The Honorable,

The Secretary of the Interior.

Sir:

Referring to Department letter of March 1, 1909, there is transmitted herewith a report dated April 20, 1909, from the Commissioner to the Five Civilized Tribes, relative to the enrollment case of William B. Brown et al. The history of the claim is set out fully in the reports enclosed.

The record shows, among other things, that on August 13, 1906, the Commissioner to the Five Civilized Tribes rendered a decision that Nancy A. Brown, Bettie McCarty, Mary Ethel McCarty, William B. Brown, Sarah Johnston, Becky Brown, Mary Johnston, Mamie (or Minnie) Hudson, Alice Brown, George Brown, Susie Brown, William Erman Johnston, Minnie Gertrude Brown, Henry Niten Brown, Fannie C. Brown, Caswell M. Brown, M. Maudie Brown, Willie Brown, Elbert Knightington Brown, Polly A. Peck, Florence Peck, Oscar Peck, Benjamin Peck, Andrew Peck, Otis Dewey Peck, Virgie Peck, George G. Brown, Willie Emma Brown, James B. Nichols, Della May Scott, Nancy V. Nichols, John W.

B. Nichols, Louie Herman Nichols, Golda Ula Nichols, Orin M. Nichols, James W. Nichols, Maggie M. Nichols, Nettie Myrtle Nichols and Lenie A. Nichols should be enrolled as citizens by blood and William B. Brown, Nancy Brown, Eli W. Brown, Amanda Brown, Sarah Brown, Nancy C. Nichols, Bessie Nichols, Amanda M. Nichols and Osa Nichols as citizens by intermarriage of the Choctaw Nation under the provisions of the Acts of Congress approved June 28, 1898 (30 Stat. L. 495) and July 1, 1902 (32 Stat., L. 641).

The applications for the enrollment of William A. McCarty, Ollie McCarty, Oscar Lee Johnston, Willie Clarence Brown, Roy Lester Johnston, Edna Arvel Johnston, Teddy Golden Johnston, Rubie Dill Brown, Annie Jewell Brown, Prebble Peck, Cassie Brown, Goldie Brown, Nema May Scott, Lita Lois Scott, Sylvie Jewel Nichols and Cora Lee Nichols were also granted under the provisions of the Act of Congress approved April 26, 1906 (34 Stat. L. 137).

The application for the enrollment of Andrew J. Peck as a citizen by intermarriage was denied and the application for the enrollment of Daphne Myrtle Nichols as a citizen by blood of the Choctaw Nation was dismissed.

It appears that on August 14, 1906, the record in the case, together with the decision, was forwarded by the Com-

Commissioner to the Five Civilized Tribes, and that on February 7, 1907, he transmitted to the Department schedules of citizens of the Choctaw Nation by blood and by marriage, containing the names of persons who were favorably passed upon by him in his decision of August 13, 1906, in this case. It appears also that on February 26, 1907, the Commissioner, referring to Department letter of February 23, 1907, invited the Department's attention to the above-mentioned schedules, and to the Choctaw enrollment case of William B. Brown, et al., and recommended, in view of the opinion of the Attorney General dated February 19, 1907, in the Loula West and other cases, that his decision of August 13, 1906, be not approved, and that the schedules referred to be disapproved.

On March 1, 1907, the Department reversed the decision of the Commissioner so far as it was favorable to the applicants, and disapproved the schedules containing their names.

The Commissioner to the Five Civilized Tribes reports further that his office has no record of any favorable decision of the Department as to the persons included in this case.

It appears also that their names have never been placed upon any roll or schedule of citizens of the Choctaw Nation prepared by the Commissioner to the Five Civilized Tribes and approved by the Department.

The Office concurs in the view of the Commissioner to the Five Civilized Tribes that as the record in the case is a complete one, the applicants could add nothing material thereto at this time, and to have them appear at his office to give further testimony would only make additional expense for them and work a hardship without any benefits accruing therefrom.

On April 9, 1909, the Office requested the Commissioner to the Five Civilized Tribes to take no steps pending the preparation of his report concerning the enrollment case of William B. Brown, et al toward the issuance of a patent to any adverse party in interest to the lands occupied by the applicants in the above mentioned case. The Commissioner was also requested to instruct the United States Indian Agent, at Union Agency, to suspend action, if any was contemplated, toward dispossessing the applicants of the lands occupied by them until further advised by the Department.

The Commissioner reports that no formal allotments were made to the persons included in the above case, but that applications were made in their behalf for certain lands which were involved in Chickasaw contest cases. The contests in behalf of these claimants were dismissed by the Commissioner to the Five Civilized Tribes, and on October 12, 1907, the Office held that the action of the Commissioner was proper, and recommended that he be advised that all applications for

L-31790-5

allotments in behalf of these persons should be denied.

This recommendation was approved by the Department on October 14, 1907. It appears from the report of the Commissioner to the Five Civilized Tribes that the lands in contest were awarded to the contestees and patents therefor were recorded and delivered to them. Title having passed to the contestees, the Department is now without authority to place or permit the applicants in the William B. Brown case to remain in possession of the lands covered by the patents issued to the contestees, even in the event of the Department rendering a favorable decision relative to their enrollment.

The Commissioner reports that his office has no record of the applicants in the case mentioned holding or claiming possession of any other lands in the Choctaw or Chickasaw Nations, but says that if they are in occupancy of such other lands his office will, upon receipt of a description thereof, make a record of the claims pending further action by the Department.

The Office is of the opinion that the case of William B. Brown, et al., is not analogous to that of John E. Goldsby, and that it does not come within the principles announced by the Supreme Court of the United States in its decision of November 30, 1906, in that case (211 U. S. 249.)

L-31790-6

It is therefore recommended that the Department take no action looking to the enrollment of any of the applicants included in the consolidated case of William B. Brown, et al.

The record in the case, and other papers pertaining thereto, are transmitted herewith for your further information.

Very respectfully,

R. G. Valentine,

Acting Commissioner.

RES 11

891

WGP June 15, 1909 JWH

Approved:

Frank Pierce,

First Assistant Secretary. FWU

Muskogee, Oklahoma, June 29, 1909.

Marie Hudson,

Comanche, Oklahoma.

Madam:

You are hereby notified that on June 15, 1909, the Secretary of the Interior held that the Choctaw enrollment case of William B. Brown et al., with which your case was consolidated, was not analogous to that of John E. Goldsby (211 U.S. 249) and declined to take any action looking to the enrollment of the applicants therein under the opinion of the Supreme Court of the United States of November 30, 1908, in said Goldsby case.

Respectfully,

Commissioner.

Chootaw

Coswell M. Brown

Aug. 13, 1906 Granted

3-1, 07 Decision of Commissioners
reversed by Dept. and schedules
concerning

Trans. from Choc card 5066 See Petition
#C 34

Duplicate bound

3-1-09 Dept requests report

4-20-09 Report To Dept

6-15-09 Dept holds case is NOT analogous
To Goldsby Case + declines To Take action
looking To enrollment of applicants

6-29-09 Parties notified

6022

G.L.J.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of
William B. Brown, et al., as citizens of the Cheateau Nation, con-
solidating the applications of

William B. Brown, et al.	7-5096,
William B. Brown, et al.	7-5060,
Elia W. Brown, et al.	7-D-432,
Caswell M. Brown, et al.	7-5066
Andrew J. Peak, et al.	7-5062
George G. Brown, et al.	7-5098
James B. Nichols, et al.	7-5100,
John W. B. Nichols, et al.	7-5097,
Orin M. Nichols, et al.	7-5061,
Ona Nichols, et al.	7-D-509.

D E C I S I O N.

It appears from the census card records in this case
that on September 22, 1898, application was made to the Commission to
the Five Civilized Tribes for the enrollment of William B. Brown (six-
ty-two years of age), as a citizen by intermarriage of the Cheateau
Nation, and for the enrollment of his two children, Nancy A. Brown
(twenty-three years of age) and Nettie Brown, nee McCarty (nineteen
years of age), as citizens by blood of the said nation; on September
22, 1898, for the enrollment of William B. Brown (thirty-nine years
of age), and his seven minor children, Sarah Brown, nee Johnston
(eighteen years of age), Becky Brown (sixteen years of age), Mary
Brown, nee Johnston (thirteen years of age), Mamie (or Minnie)

Brown, now Hudson (eleven years of age), Alice Brown (eight years of age), George Brown (five years of age) and Susie Brown (one year of age), as citizens by blood of the Choctaw Nation; and for the enrollment of Nancy Brown (thirty-six years of age) as a citizen by intermarriage of said nation; on September 6, 1899, for the enrollment of Eli W. Brown (twenty-eight years of age) as a citizen by intermarriage of the Choctaw Nation; on September 22, 1898, for the enrollment of Caswell M. Brown (thirty-four years of age), and his two minor children, Maudie (ten years of age) and Willie Brown (six years of age), as citizens by blood of the Choctaw Nation, and on October 18, 1898, for the enrollment of his wife, Amanda Brown (thirty-one years of age), as a citizen by intermarriage of said nation; on September 22, 1898, for the enrollment of Andrew J. Peek (thirty-two years of age) as a citizen by intermarriage of the Choctaw Nation, and for the enrollment of his wife, Pelly A. Peek (thirty years of age), and his five minor children, Florence (nine years of age), Oscar (seven years of age), Benjamin G. (five years of age), Andrew (three years of age), and Otis Deway Peek (two months of age), as citizens by blood of said nation; on September 22, 1898, for the enrollment of George G. Brown (twenty-six years of age), and his minor daughter, Willie Emma Brown (three years of age), as citizens by blood of the Choctaw Nation, and for the enrollment of his wife, Sarah Brown (twenty-one years of age), as a citizen by intermarriage of said nation; on September 22, 1898, for the enrollment of James B. Nichols (forty-eight years of age), and his two minor children, Della May Nichols, now Beett (fourteen years of age), and Nancy V. Nichols (seven years of age), as citizens by blood of the Choctaw Nation, and for the enrollment of his wife, Nancy G. Nichols, (forty-two years of age), as a

citizens by intermarriage of said nation; on September 22, 1898, for the enrollment of John W. B. Nichols (twenty-four years of age) as a citizen by blood of the Choctaw Nation, and for the enrollment of his wife, Bessie Nichols (eighteen years of age), as a citizen by intermarriage of said nation; on September 22, 1898, for the enrollment of Orin M. Nichols (forty-four years of age), and his four minor children, James W. (eighteen years of age), Maggie M. (twelve years of age), Nettie Myrtle (eight years of age), and Lonie A. Nichols (four years of age), as citizens by blood of the Choctaw Nation, and for the enrollment of his wife, Amanda M. Nichols (thirty-eight years of age), as a citizen by intermarriage of said nation; and on September 25, 1899, for the enrollment of Osa Nichols (seventeen years of age) as a citizen by intermarriage of the Choctaw nation.

Applications were subsequently made for the enrollment of the following minor applicants as citizens by blood of the Choctaw Nation: On January 30, 1902, for the enrollment of Mary Ethel McCarty (born December 8, 1901); on May 31, 1906, for the enrollment of William A. McCarty (born April 21, 1904) and Ollie McCarty (born February 14, 1906); on October 13, 1900, for the enrollment of William Herman Johnston (born June 30, 1900); on October 19, 1900, for the enrollment of Minnie Gertrude Brown (born August 13, 1900); on May 16, 1901, for the enrollment of Fannie G. Brown (born February 11, 1901); on April 29, 1906, for the enrollment of Oscar Lee Johnston (born November 14, 1903); on April 29, 1906, for the enrollment of Willie Clarence Brown (born April 8, 1903); on July 12, 1903, for the enrollment

Henry Witen Brown, (born May 21, 1902); on April 20, 1906, for the enrollment of Ray Lester Johnston (born October 20, 1903); on May 21, 1906, for the enrollment of Edna Arvel Johnston (born March 21, 1905); on April 14, 1906, for the enrollment of Rubie Bill Brown (born February 12, 1904); in 1899, for the enrollment of Elbert Knightington Brown (born October 8, 1899); on April 7, 1906, for the enrollment of Annie Jewell Brown (born December 2, 1902); on December 10, 1901, for the enrollment of Virgie Peck (born October 11, 1901); on April 8, 1906, for the enrollment of Prebbie Peck (born February 19, 1904); on May 21, 1906, for the enrollment of Cassie Brown (born May 30, 1900) and Goldie Brown (born September 5, 1904); on April 17, 1906, for the enrollment of Hema May Scott (born May 15, 1903) and Lita Lois Scott (born February 1, 1906); on September 1, 1900, for the enrollment of Louis Herman Nichols (born August 19, 1900); on December 27, 1901, for the enrollment of Golda Ula Nichols (born September 15, 1901); on April 1, 1906, for the enrollment of Sylvie Jewel Nichols (born August 28, 1903); on April 14, 1906, for the enrollment of Cara Lee Nichols (born November 6, 1902); on April 6, 1901, for the enrollment of Daphne Myrtle Nichols (born February 20, 1901); and on May 21, 1906, for the enrollment of Teddy Golden Johnston (born June 15, 1906).

It appears from the records of the Commission to the Five Civilized Tribes that on September 9, 1896, in the case entitled "Nancy Cooper, et al. vs. Choctaw Nation" (1896 Choctaw Citizenship Becket, Case No. 1418), original application was made to said Commission, under the provisions of the Act of Congress approved June 10, 1896 (29 Stats., 321), for admission to

citizenship in the Choctaw Nation of the applicants, Nancy A. Brown (as Nancy Alice Brown), Bettie McCarty (as Rebecca Elizabeth Brown), William H. Brown (as William Hiten Brown), Sarah Johnston (as Sarah Elizabeth Brown), Rocky Brown (as Rebecca Catherine Brown), Mary Brown (as Mary Arrillie Brown), Mamie (or Minnie) Hudson (as Minnie Ann Brown), Alice Brown, George Brown (as George Montgomery Brown), Caswell M. Brown, Maudie Brown (as Mandy E. Brown), Willie Brown (as William G. Brown), Pelly A. Peck (as Pelly Ann Peck), Florence Peck (as Minnie F. Peck), Oscar Peck (as Oscar E. Peck), Benjamin Peck (as Benjamin G. Peck), Andrew Peck, George G. Brown, Willis Egan Brown, James B. Nichols (as James Bruton Nichols), Della May Scott (as Mary Della May Nichols), Nancy V. (Mamie Velma Nichols), John W. B. Nichols (as John William Bethuel Nichols), Orin M. Nichols (as Orrin Maybery Nichols), James W. Nichols (as James Willis Nichols), Maggie M. Nichols (as Maggie May Nichols), Nettie Myrtle Nichols, Lenie A. Nichols (as Lena Alta Nichols), as citizens by blood of said nation, and for the admission of William E. Brown, Nancy J. Brown (as Nancy Jane Brown), Amanda Brown, Andrew J. Peck (as A. J. Peck), Sarah Brown, Nancy C. Nichols (as Nancy Caroline Nichols), and Amanda M. Nichols (as Amanda Melvina Nichols), as citizens by intermarriage of said nation; and that on December 8, 1896, said Commission rendered its decision therein, denying the application of the above named applicants for enrollment as citizens of the Choctaw Nation.

From the decision of said Commission an appeal was taken to the United States Court for the Southern District of Indian Territory, which court on December 27, 1897, in the case

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entitled "Nancy J. Geeser, et al. vs. Choctaw Nation" (Southern District Citizenship Case No. 96), admitted Nancy A. Brown (as Nancy Alice Brown), Bettie McCarty (as Bettie Brown), Sarah Johnson (as Sarah Brown), Josky Brown, Mary Brown, Manie (or Minnie) Hudson (as Manie Brown), Alice Brown, George Brown, Susie Brown, Caswell M. Brown (as Caswell Marion Brown), Maudie Brown, Willie Brown, Polly A. Peek (as Polly Ann Peek), Florence Peek, Oscar Peek, Benjamin Peek (as Benjamin Grant Peek), Andrew Peek, George G. Brown, Willie Emma Brown, James B. Nichols (as James Bruton Nichols), Della May Scott (as Dell May Nichols), Nancy E. Nichols (as Nancy Valmer Nichols), Orin M. Nichols (as Orin Mayberry Nichols), James W. Nichols (as James Willis Nichols), Maggie M. Nichols (as Maggie May Nichols), Nettie Myrtle Nichols (as Myrtle Nichols), and Lonie A. Nichols (as Lonie Alta Nichols), as citizens by blood of the Choctaw Nation, and William B. Brown (as William Bluford Brown), Andrew J. Peek (as Andrew Jackson Peek), and Nancy C. Nichols (as Nancy Caroline Nichols), as citizens by intermarriage of said nation, and denied the applications for the admission of Nancy J. Brown (as Nancy Jane Brown), Sarah Brown, and Amanda M. Nichols (as Amanda Melvina Nichols), as citizens by intermarriage of the Choctaw Nation. The name of the applicant, Susie Brown, was interpolated in the judgment of said court, she not having been an applicant before the Commission to the Five Civilized Tribes in 1896.

On March 18, 1896, said case again came before said court upon a motion of the plaintiff's attorneys to correct the judgment of said court rendered December 20, 1895, and the court, thereupon, ordered said judgment corrected so as to admit the

applicants, Nancy J. Brown (as Nancy Jane Brown), Sarah Brown, Amanda M. Nichols (as Amanda Melvina Nichols), as citizens by intermarriage of the Cheetaw Nation.

On September 25, 1898, said court rendered a supplemental judgment admitting Amanda Brown as a citizen by intermarriage of the Cheetaw Nation.

On January 17, 1900, this cause again came before said court upon a motion of the defendant to strike out of the judgment theretofore rendered, certain names improperly admitted to citizenship, and said court being fully advised, ordered that the following names, Susie Brown, Andrew J. Peck as (Andrew Jackson Peck), Bettie McCarty (as Bettie Brown), and Becky Brown, be stricken from said former judgment.

Subsequently, upon the representation of the plaintiffs' attorneys that certain persons who were original applicants were by oversight or mistake left out of the original judgment theretofore rendered, the court ordered that the applicants, Nancy J. Brown (as Nancy Jane Brown), Sarah Brown, Amanda Brown, Amanda M. Nichols and Rebecca M. Brown be admitted to citizenship in the Cheetaw Nation.

It further appears from the records of said Commission that on December 17, 1902, the Cheetaw and Chickasaw Citizenship Court, created under the provisions of the Act of Congress approved July 1, 1902 (32 Stat., 641), "set aside, annulled, vacated and held for naught" the aforesaid judgment of the United States Court for the Southern District of Indian Territory.

Thereafter, the record in the above case was certified to the Cheetaw and Chickasaw Citizenship Court, for a trial de novo, which court, on November 20, 1904, in the case entitled, "William

Neighton Brown, et al. vs. Choctaw and Chickasaw Nations" (Choctaw Chickasaw Citizenship Court Case No. 93, Tishomingo Docket), "ordered, adjudged and decreed that the petition of the plaintiffs, William Neighton Brown (Mr William Neighton Brown), Casswell Marion Brown, Polly Ann Peck (nee Brown), George E. Brown (or George G. Brown), Henry Ellis Brown (or Henry Alice Brown), Sarah Brown, Mary Brown, Mamie Brown (or Mamie Brown), Alice Brown, George Brown, Mondie Brown (or Maudie Brown), Willie Brown, Florence Peck, Oscar Peck, Benjamin Grant Peck, Andrew Peck, William Emma Brown (or Willie Emma Brown), James Burton Nichols, (or James Bruton Nichols), Oney Mayberry Nichols (or Orin Mayberry Nichols), John William Buffle Nichols, Della May Nichols, Nancy Velmer Nichols, James Willis Nichols, Maggie May Nichols, Myrtle Nichols, Lonie Alta Nichols, William Buford Brown, Nancy Caroline Nichols, Rebecca E. Brown (or Becky Brown), Rebecca G. Brown (or Rebecca Brown), Amanda Melvina Nichols, Amanda Brown, Nancy J. Brown (or Nancy Jane Brown), Sarah Brown, be denied, and that they be declared not citizens of the Choctaw Nation, and not entitled to enrollment as such citizens, and not entitled to any rights whatever flowing therefrom."

On December 12, 1904, orders were entered of record by the Commission to the Five Civilized Tribes dismissing the applications for the enrollment of Mary E. McCarty, William Emma Johnston, Minnie Gertrude Brown, Henry Hiten Brown, Albert Knightington Brown, Otis Dewey Peck, Virgie Peck, Louis Herman Nichols and Selma Ula Nichols as citizens by blood of the Choctaw Nation, and on March 14, 1906, an order was entered of record dismissing the application for the enrollment of Fannie G. Brown as a citizen by

blood of said nation. All of said applicants were dismissed for the reason that their parents through whom they claim their rights to enrollment as citizens by blood of the Choctaw Nation, had been denied by a decree of the Choctaw and Chickasaw Citizenship Court.

On December 12, 1904, orders were entered of record by the Commission to the Five Civilized Tribes dismissing the applications for the enrollment of Eli V. Brown, Bessie Nichols and Osa Nichols as citizens by intermarriage of the Choctaw Nation, for the reason that the persons through whom they claim their rights had also been denied by a decree of the Choctaw and Chickasaw Citizenship Court.

On March 30, 1906, the Commission to the Five Civilized Tribes denied the application for the enrollment of Susie Brown as a citizen by blood of the Choctaw Nation, and on April 6, 1906 (I. T. D. 3810-1906), the Department set aside said decision of the Commission and returned the record to this office for a full investigation upon its merits.

Under the regulations adopted by the Commissioner to the Five Civilized Tribes of January 2, 1906, there was filed on February 4, 1906, by Grace, Grace and Blackmore, of Ardmore, Indian Territory, attorneys for the petitioners, petitions praying that William B. Brown, Nancy A. Brown, Minnie Hudson, Sarah Johnston, Oscar Lee Johnston, William Brown Johnston, Rebecca Brown, Minnie Gertrude Brown, Henry Nilton Brown, Rabie Bill Brown, Eli W. Brown, Mary A. Johnston, Ray E. Johnston, Edna A. Johnston, Rebecca McCarty, William A. McCarty, Mary E. McCarty, William W. Brown, Nancy Jane Brown, George Brown, Alice Brown, Susie Brown, Clotus Brown, Clarence Brown, A. J. Peck, Polly Ann Peck, Minnie Peck, Oscar Sherman Peck, Benjamin Grant Peck, Andrew Peck, O. D. Peck,

Virgie Peck, Prebble Peck, C. M. Brown, Amanda Brown, Maudy Brown, William Brown, Elbert K. Brown, Annie Jewel Brown, George G. Brown, Sarah Brown, Willie Emma Brown, Cassie Brown, Goldie Brown, J. B. Nichols, Nancy Nichols, Nelma Nichols, John W. B. Nichols, Bessie Deaton Nichols, Louis Herman Nichols, Golda Bala Nichols, ^{Jewel} Silva Nichols, Della Hay Scott, Emma Scott, Orin M. Nichols, Amanda Nichols, Myrtle Nichols, Lonie Nichols, James W. Nichols, Osa Nichols, Cora Lee Nichols and Maggie Angel be enrolled as citizens of the Choctaw Nation.

All of the above petitioners, with the exception of Ollie McCarty, Lita Lois Scott, Daphne Myrtle Nichols and Teddy Golden Johnston, are identical with the applicants for whom application has been made for enrollment as citizens of the Choctaw Nation.

On April 16, 1906, the principal petitioners, their attorneys, Grace, Grace & Blackmore, of Ardmore, Indian Territory, and Messrs. Mansfield, McMurray & Cernish, attorneys for the Choctaw and Chickasaw Nations, of South McAlester, Indian Territory, were advised that the Commissioner to the Five Civilized Tribes would at his office at Muskogee, Indian Territory, on Monday, May 14, 1906, at nine o'clock A. M., hear such testimony and receive such other evidence as might be submitted by the petitioners in support of their applications for enrollment as citizens of the Choctaw Nation, and by the attorneys for the Choctaw and Chickasaw Nations.

On April 18, 1906, William H. Brown, father of Essie Brown, Grace, Grace & Blackmore, attorneys for said Essie Brown, and Mansfield, McMurray & Cernish, attorneys for the Choctaw and Chickasaw Nations, were advised that on April 6, 1906, the Department set aside the decision rendered by the Commission on March 20, 1906, and returned the record in said case with in-

instructions that a full investigation be made of the rights of said Susie Brown to enrollment as a citizen by blood of the Choctaw Nation; that the testimony of creditable witnesses be required showing her Choctaw blood, if any, the time and place of her birth, her various residences, her ancestors, the privileges, if any, enjoyed by her and her parents as citizens of the Choctaw Nation; and notified that the Commissioner to the Five Civilized Tribes would at his office at Muskogee, Indian Territory, on Monday, May 14, 1906, at nine o'clock A. M., hear such testimony and receive such other evidence as might be submitted in support of said application, investigation to be conducted along the lines indicated by Department letter above referred to.

On motion of Attorney for applicants, the hearing in the matter of the above application was continued on April 26, 1906, to May 21, 1906.

On May 21, 1906, proceedings were had in the matter of said applications in pursuance to the notices above mentioned.

It appears from the record herein that the applicants, William W. Brown, Cassell M. Brown, Pelly Ann Peck, George G. Brown, Nancy A. Brown and Nettie McCarty, are the children of the principal applicant, William B. Brown, and Rebecca Cooper (now deceased), who is alleged to have been a Choctaw Indian, and the daughter of William Cooper, who was the son of Johnny Cooper, an alleged Choctaw Indian, who resided near the line between the states of Tennessee and Mississippi; that Sarah Johnston, Becky Brown, Mary Johnston, Mamie (or Minnie) Hudson, Alice Brown, George Brown, Edith Brown, Fannie G. Brown and Willie Clarence Brown, are the children of the applicants

William W. Brown and Nancy J. Brown, (the latter an applicant for intermarried rights); that Willing Brown, Oscar Lee and Teddy Golden Johnston are the children of the applicant, Sarah Johnston, and J. A. Johnston, a non-citizen; that Minnie Gertrude, Henry Witem and Rubie Dill Brown are the children of the applicants, Becky Brown and Eli W. Brown, (the latter an applicant for intermarried rights); that Ray Lester and Edna Arvel Johnston are the children of the applicant, Mary Johnston, and Jacob J. Johnston, a non-citizen; that Maudie, Willie, Elbert Knightington, and Annie Jewell Brown are the children of the applicant, Caswell M. Brown and Amanda Brown (the latter an applicant for intermarried rights); that Florence, Oscar, Benjamin, Andrew, Otis Dewey Virgie and Prebbie Peck are the children of the applicant, Felly Ann Peck and Andrew J. Peck (the latter an applicant for intermarried rights); that Willie Egan, Cassie and Goldie Brown are the children of the applicants, George G. Brown and Sarah Brown (the latter an applicant for intermarried rights); that Mary Ethel, William A. and Ollie McCarty are the children of the applicant, Bettie McCarty, and Oliver McCarty, a non-citizen; that James E. Nichols and Orin M. Nichols are the children of Wilson Nichols (now deceased), a non-citizen, and Delitha Geeser (now deceased), who is alleged to have been a Chectaw Indian and the daughter of John Geeser, above referred to; that John W. E. Nichols, Della May Scott and Nancy E. Nichols are the children of the applicant, James E. Nichols and Nancy G. Nichols (the latter an applicant for intermarried rights); that Louis Herman, Gilda Ella and Sylvia Jewel Nichols are the children of the applicant, John W. E. Nichols and Bessie Nichols (the latter an applicant for

intermarried rights); that Wema May and Lita Lois Scott are the children of the applicant, Della May Scott, and Burris Scott, a non-citizen; that James W., Maggie M., Hattie Myrtle and Lonie A. Nichols are the children of the applicant, Orin M. Nichols and Amanda M. Nichols (the latter an applicant for intermarried rights); and that the applicant, Cora Lee and Daphne Myrtle Nichols, are the children of the applicants, James W. Nichols and Osa Nichols (the latter an applicant for intermarried rights).

The applicant, William B. Brown, claims his right to citizenship in the Chectaw Nation by the virtue of his marriage on February 10, 1888, under the laws of the state of Arkansas, to Becky Cooper (now deceased); that Nancy Brown claims her right to enrollment as a citizen by intermarriage by virtue of her marriage to the applicant, William B. Brown, on September 21, 1879; that Eli W. Brown claims his right to enrollment as a citizen by intermarriage by virtue of his marriage on August 21, 1899, under the laws, customs and usages of the Chickasaw Nation to the applicant, Becky Brown, both of said applicants being at said time residents in good faith of the Chickasaw Nation; that Amanda Brown claims her right to enrollment as a citizen by intermarriage by virtue of her marriage on December 2, 1886, to the applicant, Caswell M. Brown; that Andrew J. Peck claims his right to enrollment as a citizen by intermarriage by virtue of his marriage on December 13, 1887, under the laws of the state of Arkansas to the applicant, Felly A. Peck; that Sarah Brown claims her right to enrollment as a citizen by intermarriage by virtue of her marriage to George G. Brown on June 9, 1895; that the applicant, Nancy G. Nichols, claims her right to enrollment as a citizen by intermarriage by virtue of her marriage to the applicant, James B.

Nichols, on March 9, 1873; that the applicant, Fessie Nichols, claims her right to enrollment as a citizen by intermarriage by virtue of her marriage on September 11, 1898, to the applicant, John W. B. Nichols; that Amanda M. Nichols claims her right to enrollment as a citizen by intermarriage by virtue of her marriage on October 20, 1878, to the applicant, Oyin M. Nichols; and that Osa Nichols claims her right to enrollment as a citizen by intermarriage by virtue of her marriage on April 27, 1899, to the applicant, James W. Nichols.

It does not appear from the record herein or from the records in the possession of this office that the applicant, Andrew J. Peck, has ever been admitted to Choctaw citizenship by a duly constituted court or committee of the Choctaw Nation, nor has said applicant ever been married to Fally Ann Peck, through whom he claims his intermarried rights, by virtue of a license issued by the tribal authorities of either the Choctaw or Chickasaw Nation.

At the hearing before the Commissioner to the Five Civilized Tribes on May 21, 1906, William W. Brown, Caswell M. Brown, James F. Ficheta and Oyin M. Nichols testified that in 1894, they, together with the other applicants herein who were living at said time, petitioned the Choctaw Council for admission as citizens of the Choctaw Nation; that no action having been taken thereon, they, in 1896, appeared before the Choctaw Census Commission and made application to be enrolled upon the 1896 Choctaw Census Roll; and that about time in January, 1897, they received a certificate from the Secretary of the Choctaw Advisory Board, wherein it appeared that they had been enrolled upon the 1896 Choctaw Census Roll. Said applicants further testified

that prior to 1896 they had been permitted to issue permits for their tenants, hold lands, and were not subject to any tribal tax which was due from all non-citizens who were engaged in the mercantile business.

On June 4, 1906, John H. Gamblin testified that he was acquainted with the applicants herein, and that in October, 1894, he having business before the Choctaw Council, presented on behalf of the applicants herein who were living at that time, a petition praying that they be admitted as citizens of the Choctaw Nation, and that he does not know what action, if any, was ever taken thereon.

Upon an examination of the tribal rolls of the Choctaw Nation in the possession of this office, it appears that the applicants, William B. Brown, William H. Brown, Nancy J. Brown, Caswell M. Brown, Amanda Brown, Polly Ann Peck, Andrew J. Peck, George G. Brown, Sarah Brown, Nancy A. Brown, Bettie McCarty, Sarah Johnston, Becky Brown, Mary Johnston, Maudie (or Minnie) Hudson, Alice Brown, George Brown, Essie Brown, Maudie Brown, Willie Brown, Florence Peck, Oscar Peck, Benjamin Peck, Andrew Peck, James B. Nichols, Nancy C. Nichols, Oria M. Nichols, Amanda M. Nichols, John W. B. Nichols, Della May Scott, Nancy V. Nichols, James W. Nichols, Maggie M. Nichols, Mattie Myrtle Nichols and Lemie A. Nichols, are identified upon the 1896 Choctaw Census Roll opposite numbers 1688, 1691, 1692, 1701, 1702, 10616, 10617, 1705, 1706, 1689, 1690, 1693, 1694, 1695, 1696, 1697, 1698, 1699, 1703, 1704, 10619, 10620, 10621, 10622, 9803, 9808, 9812, 9813, 9809, 9810, 9811, 9814, 9815, 9816 and 9817, respectively.

It further appears from the record herein that all of

the applicants, that were living on June 28, 1898, were residents in good faith of the Indian Territory on said date.

The evidence in this case further shows that the applicant, Eugene Myrtle Nichols, died on June 27th 1901.

I am of the opinion that in accordance with the opinions of the Assistant Attorney General for the Department of the Interior of February 10, 1903 (I. T. D. 10353-1904) and December 8, 1903 (I. T. D. 3693-1903), in the case of Lula West, the action of the Commission to the Five Civilized Tribes, and the subsequent action of the United States Court for the Southern District of Indian Territory, and the Cheatew and Chickasaw Citizenship Court, upon the right of the applicants who applied to the Commission to the Five Civilized Tribes in 1896, with the exception of Andrew J. Peck, was without authority of law, and of no force and effect upon the status of said applicants as citizens of the Cheatew Nation.

I am further of the opinion that the orders of the Commission to the Five Civilized Tribes of December 12, 1904 and March 12, 1905, dismissing the applications for the enrollment of Mary E. McCarty, William Brown Johnston, Minnie Gertrude Brown, Fannie C. Brown, Henry Hiten Brown, Elbert Knightington Brown, Otis Dewey Peck, Virgie Peck, Louis Herman Nichols and Golda Ella Nichols as citizens by blood of the Cheatew Nation, and Eli W. Brown, Bessie Nichols and Osa Nichols as citizens by intermarriage of the Cheatew Nation, should be rescinded.

I am further of the opinion that in accordance with the opinions of the Assistant Attorney General for the Department of the Interior of March 3, 1903 (I. T. D. 127-1903) and March 10,

1906 (I. T. D. 9669-1906), Nancy A. Brown, Bettie McCarty, Mary Ethel McCarty, William W. Brown, Sarah Johnston, Becky Brown, Mary Johnston, Mamie (or Minnie) Madison, Alice Brown, George Brown, Susie Brown, William Herman Johnston, Minnie Gertrude Brown, Henry Niten Brown, Fannie C. Brown, Garwell M. Brown, Maudie Brown, Willie Brown, Elbert Knightington Brown, Felly A. Peck, Florence Peck, Oscar Peck, Benjamin Peck, Andrew Peck, Otis Dewey Peck, Virgie Peck, George G. Brown, Willie Emma Brown, James B. Nichols, Della May Scott, Nancy V. Nichols, John W. B. Nichols, Louis Herman Nichols, Golda Ula Nichols, Orin M. Nichols, James W. Nichols, Maggie M. Nichols, Mattie Myrtle Nichols and Louis A. Nichols should be enrolled as citizens by blood of the Choctaw Nation, under the provisions of the Acts of Congress approved June 28, 1896 (30 Stats., 495) and July 1, 1902 (32 Stats., 641), and it is so ordered.

I am further of the opinion that William B. Brown, Nancy Brown, Eli W. Brown, Amanda Brown, Sarah Brown, Nancy C. Nichols, Bessie Nichols, Amanda M. Nichols and Osa Nichols should be enrolled as citizens by intermarriage of the Choctaw Nation, under the provisions of the Acts of Congress approved June 28, 1896 (30 Stats., 495) and July 1, 1902 (32 Stats., 641), and it is so ordered.

I am further of the opinion that the application made for the enrollment of Andrew J. Peck as a citizen by intermarriage of the Choctaw Nation should be denied, under the provisions of the Act of Congress approved June 28, 1896 (30 Stats., 495), and it is so ordered.

I am further of the opinion that William A. McCarty, Ollie McCarty, Oscar Lee Johnston, Willie Clarence Brown, Ray

-18-

Lester Johnston, Edna Arvel Johnston, Teddy Golden Johnston, Rubie Bill Brown, Annie Jewell Brown, Prubbia Peak, Essie Brown, Goldie Brown, Emma May Scott, Lita Lola Scott, Sylvia Jewel Nichols and Cora Lee Nichols should be enrolled as citizens by blood of the Choctaw Nation, under the provisions of the Act of Congress approved April 26, 1906 (Public No. 129), and it is so ordered.

I am further of the opinion that the application made for the enrollment of Daphne Myrtle Nichols as a citizen by blood of the Choctaw Nation should be dismissed, and it is so ordered.

COMMISSIONER.

Muskogee, Indian Territory,

Aug. 13, 1906.

COPY

Muskogee, Indian Territory, August 13, 1906.

Caswell M. Brown,
Robberson, Indian Territory.

Dear Sir:

Inclosed herewith you will find a copy of the decision of the Commissioner to the Five Civilized Tribes, rendered August 13, 1906, granting the application for the enrollment of yourself, your children, Maudie, Willie, Elbert Knightington and Annie Jewel Brown, as citizens by blood, and of your wife, Amanda Brown, as a citizen by intermarriage of the Choctaw Nation.

The decision, with the record of proceedings in the case, is this day transmitted to the Secretary of the Interior for review. The final decision of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

RECEIVED

Commissioner.

Registered.

Incl. HAH 15/13

Muskogee, Indian Territory, August 13, 1906.

Cruce, Cruce & Bleakmore,
Attorneys at Law,
Ardmore, Indian Territory,
Gentlemen:

Inclosed herewith you will find a copy of the decision of the Commissioner to the Five Civilized Tribes, rendered August 13, 1906, granting the application for the enrollment of Nancy A. Brown, Bettie McCarty, Mary Ethel McCarty, William W. Brown, Sarah Johnston, Becky Brown, Mary Johnston, Maude (or Winnie) Hudson, Alice Brown, George Brown, Lucie Brown, William Brown Johnston, Minnie Gertrude Brown, Henry Hiten Brown, Tammie C. Brown, Cassell M. Brown, Maude Brown, Willie Brown, Albert Knightington Brown, Polly A. Peck, Clarence Peck, Oscar Peck, Benjamin Peck, Andrew Peck, Otis Dewey Peck, Virgie Peck, George G. Brown, Willie Emma Brown, James E. Nichols, Della May Scott, Nancy V. Nichols, John W. Nichols, Louis Herman Nichols, Selma Ula Nichols, Orin W. Nichols, James W. Nichols, Maggie E. Nichols, Nettie Myrtle Nichols, Lonie A. Nichols, William A. McCarty, Ollie McCarty, Oscar Lee Johnston, Willie Clarence Brown, Ray Lester Johnston, Edna Arvel Johnston, Teddy Golden Johnston, Rubie Mill Brown, Annie Jewell Brown, Prabelle Peck,

Cassie Brown, Goldie Brown, Hans W. Scott, Lita Lois Scott, Sylvia Jewel Nichols and Corn Lee Nichols, as citizens by blood, and for the enrollment of William B. Brown, Nancy Brown, Eli W. Brown, Amanda Brown, Sarah Brown, Nancy C. Nichols, Neenie Nichols, Amanda V. Nichols and Osa Nichols, as citizens by intermarriage, of the Choctaw Nation; denying the application for the enrollment of Andrew J. Peck, as a citizen by intermarriage, and dismissing the application for the enrollment of Daphne Myrtle Nichols as a citizen by blood of the Choctaw Nation.

The decision, with the record of proceedings in the case, is this day submitted to the Secretary of the Interior for review. The final decision of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

Registered.

Commissioner.

Incl. RAN 19/11

Muskegee, Indian Territory, August 13, 1906.

Mansfield, McMurray & Garnish,
Attorneys for Choctaw and Chickasaw Nations,
South McAlester, Indian Territory,

Gentlemen:

Inclosed herewith you will find a copy of the decision of the Commissioner to the Five Civilized Tribes, rendered August 13, 1906, granting the application for the enrollment of Nancy A. Brown, Bettie McCarty, Mary Ethel McCarty, William M. Brown, Sarah Johnston, Becky Brown, Mary Johnston, Mamie (or Minnie) Hudson, Alice Brown, George Brown, Susie Brown, William Erman Johnston, Minnie Gertrude Brown, Henry Witen Brown, Fannie C. Brown, Caswell M. Brown, Maudie Brown, Willie Brown, Albert Knightington Brown, Polly A. Peck, Florence Peck, Oscar Peck, Benjamin Peck, Andrew Peck, Otis Dewey Peck, Virgie Peck, George G. Brown, Willie Anna Brown, James E. Nichols, Della May Scott, Nancy V. Nichols, John W. B. Nichols, Louis Herman Nichols, Golda Ula Nichols, Orin M. Nichols, James W. Nichols, Maggie M. Nichols, Nettie Myrtle Nichols, Lenie A. Nichols, William A. McCarty, Ollie McCarty, Oscar Lee Johnston, Willie Clarence Brown, Ray Lester Johnston, Edna Arvel Johnston, Teddy Golden Johnston, Rubie Dill Brown, Annie Jewell Brown, Prebble Peck,

Manefield, McMurray & Cornish--2

Cassie Brown, Goldie Brown, Verna May Teett, Lita Lois Teett, Tylvie Jewel Nichols and Cora Lee Nichols, as citizens by blood, and for the enrollment of William R. Brown, Nancy Brown, Eli W. Brown, Amanda Brown, Sarah Brown, Nancy C. Nichols, Bessie Nichols, Amanda M. Nichols and Osa Nichols, as citizens by intermarriage, of the Cheetaw Nation; denying the application for the enrollment of Andrew J. Peck as a citizen by intermarriage, and dismissing the application for the enrollment of Daphne Myrtle Nichols as a citizen by blood, of the Cheetaw Nation.

The decision, with the record of proceedings in the case, is this day transmitted to the Secretary of the Interior for review. The final decision of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

SIGNED

Registered.

Commissioner.

Incl. HAN 17/11

Refer in reply to
the following:

Land-
Population
24578-1910
J E D

2-29161

Address only the
Commissioner of Indian
Affairs

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,

Enrollment claim of WASHINGTON.
William B. Brown, et al.

Mar 29 1910

The Commissioner

to the Five Civilized Tribes,
Muskogee, Oklahoma.

Sir:

On November 26, 1909, W. E. Field, attorney at law,
Washington, D. C., filed a brief in support of a motion for a
rehearing and review in the consolidated Choctaw enrollment case
of William B. Brown, et al.

There is transmitted herewith for your information a
copy of Department letter of March 22, 1910, denying said motion.
There is also inclosed a copy of Office letter of December 4,
1909, in said case.

Very respectfully,

John Francis Jr.
Acting Chief Land Division.

NE-24
8626

G.S.A.

Copy

DEPARTMENT OF THE INTERIOR.
WASHINGTON.

Office of Indian
Affairs.
Received
Mar 23, 1910
File 24078

D-7339.

Commissioner of Indian Affairs.

Sir:

I petition has been filed for a rehearing and review in the matter of the Choctaw enrollment case of William B. Brown et al., which was the subject of your letter of May 17, 1909, approved June 15, 1909, recommending that the Department take no action looking to the enrollment of any of the applicants included in said case.

It is urged that the applicants were found to be entitled to enrollment by the Secretary of the Interior and that therefore they should be accorded the status of recognized citizens of the Choctaw nation. It appears, however, from the records of the Department that the decision by which they were adjudged to be entitled to enrollment, and upon which they apparently rely, was rendered by the Commissioner to the Five Civilized Tribes; that said decision was not affirmed by the Secretary of the Interior, and that the names of the applicants do not appear upon the final rolls approved by the Secretary.

Premises considered, the petition is hereby denied and you are requested to advise the parties in interest as-

carding. The petition and the letter received with it
are inclosed for the files of your office.

This letter will be regarded as a substitute for
departmental letter of March 8, 1918, relating to said case.

Very respectfully,

(Signed) Frank Pierce
First Assistant Secretary.

Land
Population
95802-1909
J E D

Enrollment case
of William B. Brown,
et al.

Dec, 4, 1909

W. S. Field, Esq.

Attorney at Law,

No. 926 Colorado Building,

Washington, D. C.

Sir:

Referring to your letter of November 26, 1909 and to the brief filed therewith, relative to the consolidated Choctaw enrollment case of William B. Brown, et al., you are advised that the statements contained in your brief do not accord with the facts in the case as shown by the record.

On March 1, 1907 the Department rendered its decision denying the applicants enrollment and disapproved the schedules containing their names. It does not appear that their names were ever on any roll or schedule of citizens of the Choctaw Nation prepared by the Commission or the Commissioner to the Five Civilized Tribes and approved by the Department or that the Department ever instructed the Commission or the Commissioner to place the names of the applicants on the roll for approval; neither does the record show that the Department ever rendered any decision favorable to their enrollment.

L-95202-2

On May 17, 1909 the Department held that the case of William B. Brown, et al., was not analogous to that of John E. Golashy and did not come within the principles announced by the Supreme Court of the United States in its decision of November 30, 1908 (211 U. S., 240), in that case.

The Department, therefore, declined to take any action looking to the enrollment of the applicant included in the consolidated case of William B. Brown, et al.

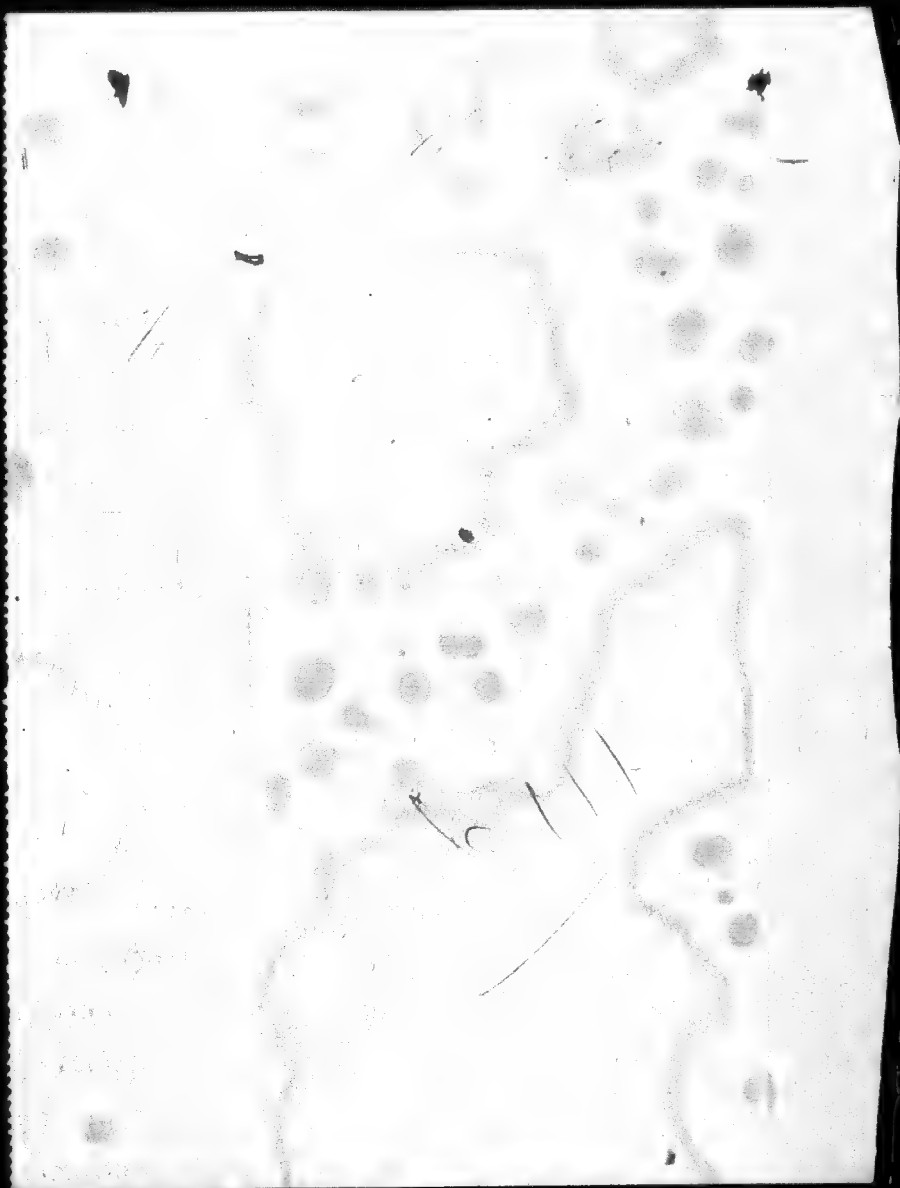
In view of the record in the case and of the Department's action therein, the Office can see no reason for recommending legislation in behalf of the applicants in said case.

Very respectfully,

(Signed) F. H. Abbott,

Assistant Commissioner.

HAS-30
6292



Umanda Brown 18000

the ten

Original judgment Oct 96 5000 97
Sup Oct 16 1896

Put on bond with
C M Brown surety
of Redwood

Note Umanda is an inter-
married citizen - Has lived
in the Territory about 9 years

Choctaw
5060-5061
5066-5100

Muskogee, Indian Territory, December 21, 1903.

Orrin W. Nichols,

Comanche, Indian Territory.

Dear Sir:

Your letter of December 3, 1903, addressed to the Secretary of the Interior, has been by him referred to this Commission for consideration and appropriate action. You ask therein if the name of J. B. Nichols, Orrin W. Nichols, William W. Brown, Caswell W. Brown, are on record as applicants for citizenship in the Choctaw Nation.

In reply to your letter you are informed that it appears from our records that James B. Nichols and his wife, and children, Orrin W. Nichols and his wife and children, William W. Brown and his wife and children, and Caswell W. Brown and his family, were admitted to citizenship in the Choctaw Nation by a judgment of the United States Court for the Southern District of Indian Territory, rendered at Ardmore, Indian Territory, December 20, 1897, in court case (Citizenship Docket), number 96. Under the provisions of the act of Congress of July 1, 1902, which was ratified by the Choctaw and Chickasaw Nations September 25, 1902, the Commission is prohibited from enrolling or making allotment of lands in the Choctaw and Chickasaw Nations to persons whose citizenship in said Nations is

Orrin W. Nichols --2

dependent upon judgments of the United States Court in Indian Territory, until their right to such citizenship is finally determined.

Respectfully,

Chairman.

Choctaw 8066

Muskogee, Indian Territory, January 16, 1904.

Caswell M. Brown,

Comanche, Indian Territory,

Dear Sir:

Receipt is hereby acknowledged of your letter of January 12, stating that certain persons are filing on land which they know does not belong to them, and you request that the Commission put a stop to this procedure.

In reply to your letter you are advised that when citizens or freedmen or duly identified Mississippi Choctaws appear at the land offices of the Commission and make application for land in allotment, they must swear that they are the owners of the improvements thereon. Then, if it develops that another citizen is maintaining improvements upon the land so selected, it becomes necessary for him to appear before the Commission and make application for the land, and institute contest proceedings therefor.

If persons are filing on the land which you desire to select in allotment you should appear at the land office for the nation in which the same is located and make application for said land, at which time you will be permitted to enter contest.

Respectfully,

Chairman.

Choctaw 5066.

Waskogee, Indian Territory, April 11, 1905.

Caswell M. Brown,

Comanche, Indian Territory.

Dear Sir:

Receipt is hereby acknowledged of the affidavits of Amanda C. Brown and J. H. Lindsay to the birth of Anna Jewell Brown, child of Caswell M. and Amanda C. Brown, December 2, 1902.

You are advised that on November 29, 1904, the Choctaw and Chickasaw Citizenship Court denied your right to citizenship in the Choctaw Nation, and as the Commission is only authorized to receive applications for the enrollment of children born to citizens by blood of the Choctaw Nation whose enrollment had prior to March 3, 1905, been approved by the Secretary of the Interior. You will see that the Commission is without authority to enroll your child.

Respectfully,

Commissioner in Charge.

7-5066

Muskogee, Indian Territory, June 12, 1906.

Caswell Brown,

Tussey, Indian Territory.

Dear Sir:

Receipt is hereby acknowledged of the affidavits of
Amanda Brown and Rebecca E. McCarty to the birth of Elbert K. Brown
child of Caswell M. and Amanda Brown, October 8, 1899.

Respectfully,

Commissioner.

SPECIAL.

J.P.

DEPARTMENT OF THE INTERIOR,

WASHINGTON.

D.C. 2920-1907.
I.T.D 25868-1906.
818-1907.

YHE
January 15, 1907.

IRS

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

Referring to departmental letters of January 9 and 14, 1907, in the matter of the applications for the enrolment of Mattie Shockey et al., as citizens by blood of the Choctaw Nation, you are advised that by direction of the President the case will be submitted to the Attorney-General for his opinion. You will suspend action relative to these claimants until further advised.

Respectfully,

Thos Ryan

First Assistant Secretary.

D.C.M.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

J.W.H.
W.C.M.
J.W.L.

GW
File 8-51.

March 1, 1909.

The Commissioner
to the Five Civilized Tribes.

Sir:

January 25, 1909, you were advised that the names of certain persons were inadvertently included in Departmental letter of January 19, 1909 (File 8-51); that such mistake was due to the fact that it was supposed they were enrolled upon schedules approved by the Department, when in fact, the only schedules upon which their names appear were disapproved, and that no action should be taken under the circumstances looking to the erasure of interlineations or notations, if any, from the disapproved schedules, in connection with their names.

The names of the persons referred to in said letter of January 25, 1909, are as follows:

Checked by Flood.

Roll No.

16103

Elizabeth Allen.

16112

George A. Sangster.

16119

Louella Grishfield.

16120

Harriet Grishfield.

16111	George W. Grutchfield.
16108	Ida Grutchfield.
16107	Em Grutchfield.
16106	Louvinia Grutchfield.
16109	William Grutchfield.
921	Josephine Laflere Long.
922	John Laflere Long.
16104	David Ritter.

It now appears from the records of the Secretary's Office that there was a schedule approved May 21, 1904, by the Secretary of the Interior, and that the approval then given was cancelled by said Secretary at a later date, to-wit, June 23, 1904.

The name of Elizabeth Allen appears upon the schedule which was approved May 21, 1904, opposite the number 15551. Ida Grutchfield's name appears opposite No. 15553, while the other members of the Grutchfield family were given the numbers immediately following that assigned to her.

You are requested to cause a report to be prepared showing whether the records of your office also show that an earlier schedule containing the names of said persons was approved May 21, 1904; also whether such approval was cancelled June 23, 1904. Please report also the reason for the attempted cancellation, and whether prior notice was given thereof.

It appears further that, in connection with the names of Elizabeth Allen and the Grutchfield family on the roll approved May 21, 1904, the names of Ardella Hickman, Ida M. Southard and Grover Randall are also to be found.

In connection with said names, it is desired that you will report what action, in your opinion, should be taken concerning the first of said persons; also whether the said Ida M. Southard and Grover Randall, respectively, are identical with the Ida M. Southard whose name appears opposite No. 15880 in the printed rolls of citizens by blood of the Choctaw Nation, and the Grover Randall whose name appears on page 8 of Departmental letter of January 19, 1906 (File 5-61), opposite No. 15928.

As appears from the above list, there were other persons besides the said Allen and Grutchfields whose names were enrolled on schedules which were finally disapproved by the Department: for example, George A. Bungarner, Josephine Laflere Long and Jake Laflere Long.

Please report whether the names of those persons appear upon any prior approved schedule; also why it was that the Commissioner to the Five Civilized Tribes enrolled them upon the schedule which was disapproved by the Department, showing whether the Commissioner enrolled them thereon, of his own motion, or under decision or instructions from the Department.

By comparison of the roll approved May 21, 1904, with the printed rolls of Choctaws by blood, the Department

finds that the numbers appearing thereon opposite the names of said persons were subsequently assigned to other citizens of the Choctaw Nation; thereby the series of roll numbers was kept perfect, but a material portion of the rolls was evidently sacrificed upon the supposition that it had become worthless. Inquiry arises in this connection as to whether there were other approved schedules which were subsequently disapproved and thrown aside. Accordingly, it is desired that you also cause a report to be prepared covering this feature of the matter, showing all persons embraced in similar cases, with recommendation as to what action should be taken as to them. This will necessitate a statement as to why their names were stricken or cancelled from the rolls, and whether such action was taken without prior notice.

There is still another matter concerning which the Department desires report to be made. It is observed that the words "No person enrolled at this number" are to be found not infrequently opposite consecutive numbers on the pages of the printed rolls; and you are requested to advise the Department whether such words were substituted for the names of individuals appearing on disapproved schedules, and if such is the case, whether such disapproved schedules were approved at any time by the Department; also whether favorable decisions were ever rendered by the Department as to such persons prior to their enrollment upon such disapproved schedules.

For the sake of expedition, a partial report should be rendered at once concerning the said Elizabeth Allen and the various members of the Grutchfield family named above. The other matters referred to herein can be disposed of by subsequent reports.

Very respectfully,
Jesse N. Wilson,
Assistant Secretary.

Through the
Indian Office.

+

Land
24229-08
17077-08

JFR

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON, D. C., Mar. 1, 09.

Respectfully referred to the Commissioner
to the Five Civilized Tribes, for
appropriate action.

John Frances, Jr.
Acting Chief Land Division.

1 letter dated Mar. 1, 09.

D 460-1909

Muskogee, Oklahoma, April 30, 1909.

Subject:

Requesting report relative
to petition of Wm. B. Brown
et al. for enrollment as
citizens of the Choctaw
Nation.

The Honorable,

The Secretary of the Interior,

Sir:

Receipt is hereby acknowledged of Indian Office letter of April 9, 1909 (Land 23090-1909) transmitting petition of Wm. B. Brown, et al. for enrollment as citizens of the Choctaw Nation. This office is also requested to report specially whether the names of any of the persons in this petition appeared upon any tribal rolls of the Choctaw Nation or upon any roll prepared by the Commission to the Five Civilized Tribes and approved by the Secretary of the Interior.

March 1, 1909, the Department also addressed a letter to this office requesting reports as to all persons whose names may have been upon disapproved schedules and at whose numbers in the printed rolls appears the notation "No person enrolled at this number."

Secretary 2

The case of William B. Brown is one of the cases referred to in Departmental letter of March 1, 1909 and the report is made to the Secretary of the Interior, through the Indian Office, with the view of complying with both requests.

I have the honor to report as follows, relative to the case of William B. Brown and the other members of his family who were included in the decision in the consolidated Choctaw case of William B. Brown, et al.:

It appears from the records of this office that on September 9, 1896, in the case entitled Nancy Ceepor et al. versus the Choctaw Nation, 1896 Choctaw Citizenship Case Number 1418, original application was made to the Commission to the Five Civilized Tribes, under the provisions of the Act of Congress approved June 10, 1896 (29 Stat., 321), for admission to citizenship in the Choctaw Nation of the applicants, Nancy A. Brown (as Nancy Alice Brown), Bettie McCarty (as Rebecca Elizabeth Brown), William F. Brown (as William Witen Brown), Sarah Johnston (as Sarah Elizabeth Brown), Becky Brown (as Rebecca Catherine Brown), Mary Brown (as Mary Arrillie Brown), Mamie (or Minnie) Hudson (as Minnie Ann Brown), Alice Brown, George Brown (as George Montgomery Brown), Caswell H. Brown, Maudie Brown (as Mandy H. Brown), Willie Brown (as William C. Brown), Felly A. Peck (as Felly Ann Peck), Florence

Secretary 3

Peck (as Minnie F. Peck), Oscar Peck (as Oscar E. Peck), Benjamin Peck (as Benjamin G. Peck), Andrew Peck, George G. Brown, Willie Emma Brown, James B. Nichols, (as James Bruton Nichols), Della May Scott (as Mary Della May Nichols), Nancy V. Nichols (as Nannie Velma Nichols), John W. B. Nichols (as John William Bethuel Nichols), Orin M. Nichols (as Orrin Mayberry Nichols), James W. Nichols (as James Willie Nichols), Maggie M. Nichols (as Maggie May Nichols), Mattie Myrtle Nichols, Lonie A. Nichols (as Lona Ata Nichols), as citizens by blood, and for the admission of William B. Brown, Nancy J. Brown (as Nancy Jane Brown), Amanda Brown, Andrew J. Peck (as A. J. Peck), Sarah Brown, Nancy C. Nichols (as Nancy Caroline Nichols), and Amanda M. Nichols (as Amanda Melvina Nichols), as citizens by intermarriage of said nation; and that on December 8, 1896, said Commission rendered its decision denying the applications for citizenship of the above named persons.

From this decision of the Commission an appeal was taken to the United States Court for the Southern District of Indian Territory, which court on December 20, 1897, in the case entitled Nancy J. Cooper, et al. versus the Choctaw Nation, Case Number 96 on the Citizenship Docket, admitted Nancy A. Brown (as Nancy Alice Brown), Bettie McCarty (as Bettie Brown), Sarah Johnston (as Sarah Brown), Becky Brown,

Secretary 4

Mary Brown , Mamie (or Minnie) Hudson (as Mamie Brown), Alice Brown, George Brown, Susie Brown, Caswell H. Brown (as Caswell Marion Brown), Maudie Brown, Willie Brown, Pelly A. Peck (as Pelly Ann Peck), Florence Peck, Oscar Peck, Benjamin Peck (as Benjamin Grant Peck), Andrew Peck, George G. Brown, Willie Emma Brown, James B. Nichols (as James Bruton Nichols), Della May Scott (as Dell May Nichols), Nancy V. Nichols (as Nancy Velmor Nichols), Orin M. Nichols)(as Orin Mayberry Nichols), James W. Nichols (as James Willis Nichols), Maggie M. Nichols (as Maggie May Nichols), Nettie Myrtle Nichols (as Myrtle Nichols, and Lonie A. Nichols (as Lonie Ata Nichols) as citizens by blood of the Choctaw Nation, and William B. Brown (as William Bluford Brown), Andrew J. Peck (as Andrew Jackson Peck), and Nancy G. Nichols (as Nancy Caroline Nichols) as citizens by intermarriage of said nation, and denied the applications for the admission of Nancy J. Brown (as Nancy Jane Brown), Sarah Brown and Amanda M. Nichols (as Amanda Melvina Nichols) as citizens by intermarriage of the Choctaw Nation. The name of the applicant, Susie Brown, was interpolated in the judgment of said court, she not having been an applicant before the Commission to the Five Civilized Tribes in 1896.

March 18, 1898, this case again came before the United States Court upon a motion of the plaintiffs' attorneys to

Secretary 5

correct the judgment of said court rendered December 20, 1897, and the court thereupon ordered said judgment corrected so as to admit the applicants, Nancy J. Brown (as Nancy Jane Brown), Sarah Brown, Amanda M. Nichols (as Amanda Melvina Nichols) as citizens by intermarriage of the Choctaw Nation.

September 28, 1898, said court rendered a supplemental judgment admitting Amanda Brown as a citizen by intermarriage of the Choctaw Nation.

January 17, 1900, this cause again came before the court upon a motion of the defendant to strike out of the judgment theretofore rendered certain names improperly admitted to citizenship, and the court ordered that the names of Susie Brown, Andrew J. Peck (as Andrew Jackson Peck), Bettie McCarty (as Bettie Brown), and Becky Brown be stricken from said former judgment.

Subsequently, upon the representation of the plaintiffs' attorneys that certain persons who were original applicants were by oversight or mistake left out of the original judgment theretofore rendered, the court ordered that the applicants, Nancy JANE Brown (as Nancy Jane Brown), Sarah Brown, Amanda Brown, Amanda M. Nichols and Rebecca E. Brown be admitted to citizenship in the Choctaw Nation.

December 17, 1902, the Choctaw and Chickasaw Citizenship

Secretary 6

Court, created under the provisions of the Act of Congress approved July 1, 1902 (32 Stat., 641), "set aside, annulled, vacated and held for naught" the aforesaid judgment of the United States Court for the Southern District of the Indian Territory.

The record in this case was subsequently certified to the Choctaw and Chickasaw Citizenship Court for a trial de novo, which court, November 29, 1904, in the case entitled William Neighton Brown, et al. versus the Choctaw and Chickasaw Nations, Number 73 on the Tishomingo Docket, ordered, adjudged and decreed that the petition of the plaintiffs be denied and that they be declared not citizens of the Choctaw Nation, and not entitled to enrollment as such citizens, and not entitled to any rights whatever flowing therefrom.

December 12, 1904, orders were entered of record by the Commission to the Five Civilized Tribes dismissing the applications for the enrollment of Mary H. McCarty, William Herman Johnston, Minnie Gertrude Brown, Henry Witen Brown, Elbert Knightington Brown, Otis Dewey Peck, Virgie Peck, Louie Herman Nichols and Golda Ula Nichols as citizens by blood of the Choctaw Nation and March 18, 1905, and order was entered of record dismissing the application for the enrollment of Fannie C. Brown as a citizen by blood of said nation

Secretary 7

for the reason that the parents of these children had been denied by a decree of the Choctaw and Chickasaw Citizenship Court.

December 12, 1904, orders were entered of record by the Commission dismissing the applications for the enrollment of E. W. Brown, Bessie Nichols and Osa Nichols as citizens by intermarriage of the Choctaw Nation for the reason that the persons through whom they claimed their rights had been denied by a decree of the Choctaw and Chickasaw Citizenship Court.

March 30, 1905, the Commission to the Five Civilized Tribes denied the application for the enrollment of Susie Brown as a citizen by blood of the Choctaw Nation, and on April 6, 1906 (I T D 3810-1905) the Department set aside this decision of the Commission and returned the record to this office for investigation upon its merits.

Under the regulations adopted by the Commissioner to the Five Civilized Tribes of January 2, 1906, there were filed on February 6, 1906, by Guss, Grace 'Blackmore, attorneys for the petitioners, Ardmore, Indian Territory, petitions praying that William E. Brown, Nancy A. Brown, Minnie Hudson, Sarah Johnston, Oscar Lee Johnston, William Herman Johnston, Rebecca Brown, Minnie Gertrude Brown, Henry

Secretary 8

Niten Brown, Ebbie Hill Brown, Eli V. Brown, Mary A. Johnston, Roy Lester Johnston, Mina A. Johnston, Rebecca McCarty, William A. McCarty, Mary E. McCarty, William H. Brown, Nancy Jane Brown, George Brown, Alice Brown, Susie Brown, Cletus Brown, Clarence Brown, A. J. Peck, Pelly Ann Peck, Minnie Peck, Oscar Sherman Peck, Benjamin Grant Peck, Andrew Peck, O. D. Peck, Virgie Peck, Prebble Peck, C. M. Brown, Amanda Brown, Mandy Brown, William Brown, Elbert E. Brown, Annie Jewel Brown, George G. Brown, Sarah Brown, Willie Emma Brown, Cassie Brown, Goldie Brown, J. B. Nichols, Nancy Nichols, Helma Nichols, John W. B. Nichols, Bessie Deaton Nichols, Louie Herman Nichols, GoldaBula Nichols, Silva Jewel Nichols, Della May Scott, NemaScott, Orin M. Nichols, Amanda Nichols, Myrtle Nichols, Lenie Nichols, James W. Nichols, Osa Nichols, Cora Lee Nichols and Maggie Angel be enrolled as citizens of the Choctaw Nation.

April 16, 1906, the principal petitioners, their attorneys of record and the attorneys for the Choctaw and Chickasaw Nations, were advised that a hearing would be had in this matter at the office of the Commissioner to the Five Civilized Tribes, Muskogee, Indian Territory, Monday, May 14, 1906, at nine o'clock A. M. and on the same date, William H. Brown, father of Susie Brown, Grace, Grace & Blackmore, and Nema-

Secretary 9

field, McMurray & Cornish, were advised that on April 6, 1906, the Department had set aside the decision of the Commission to the Five Civilized Tribes of March 30, 1905, and returned the record with instructions that a full investigation be made of the rights of the said Susie Brown to enrollment as a citizen by blood of the Choctaw Nation, and that such testimony and evidence would be received at the date of the hearing on the petition.

On motion of attorneys for applicants the hearing was continued until May 21, 1906, on which date proceedings were had in the matter of said petition in pursuance to the notices above mentioned.

At the hearing William N. Brown, Caswell M. Brown, James B. Nichols and Orin M. Nichols testified that in 1894, they, together with the other applicants herein who were living at that time, petitioned the Choctaw Council for admission as citizens of the Choctaw Nation; that no action having been taken by the Council as to their case they, in 1896, appeared before the Choctaw Census Commission and made application to be enrolled upon the 1896 Choctaw Census Roll; that some time in January, 1897, they received a certificate from the Secretary of the Choctaw Revisory Board, wherein it appeared that they had been enrolled upon the 1896 Choctaw Census Roll.

Secretary 10

It appears that the applicants, William B. Brown, William H. Brown, Nancy J. Brown, Cassell M. Brown, Amanda Brown, Pabby Ann Peck, Andrew J. Peck, George S. Brown, Sarah Brown, Nancy A. Brown, Bettie McCarty, Sarah Johnston, Becky Brown, Mary Johnston, Mamie (or Minnie) Hudson, Alice Brown, George Brown, Essie Brown, Maudie Brown, Willie Brown, Florence Peck, Oscar Peck, Benjamin Peck, Andrew Peck, James B. Nichols, Nancy C. Nichols, Orin M. Nichols, Amanda M. Nichols, John W. B. Nichols, Della May Scott, Nancy V. Nichols, James W. Nichols, Maggie M. Nichols, Kettie Myrtle Nichols and Lenie A. Nichols are identified upon the 1896 Census Roll of the Choctaw Nation, Blue County.

August 13, 1906, the Commissioner to the Five Civilized Tribes rendered a decision, in accordance with the opinion of the Assistant Attorney General for the Department of the Interior of February 19, 1905 (I T D 10383-1904) and December 8, 1905 (I T D 2693-1905) in the case of Lula West, holding that the action of the Commission to the Five Civilized Tribes and the subsequent action of the United States Court for the Southern District of Indian Territory and the Choctaw and Chickasaw Citizenship Court upon the right of the applicants who applied to said Commission in 1896, with the exception of Andrew J. Peck, was without authority of law,

Secretary 11

and of no force and effect upon the status of said applicants as citizens of the Choctaw Nation.

He also rescinded the orders of the Commission to the Five Civilized Tribes of December 12, 1904, and March 18, 1906, dismissing the applications for the enrollment of Mary E. McCarty, William Herman Johnston, Minnie Gertrude Brown, Fannie G. Brown, Henry Witen Brown, Elbert Knightington Brown, Otis Dewey Peck, Virgie Peck, Louis Herman Nichols and Gelda Ula Nichols as citizens by blood of the Choctaw Nation and Eli W. Brown, Bessie Nichols and Osa Nichols as citizens by intermarriage of the Choctaw Nation.

The Commissioner to the Five Civilized Tribes further held, in accordance with the opinions of the Assistant Attorney General for the Department of the Interior of March 3, 1906 (I T D 187-1906) and March 10, 1906 (I T D 9369-1906) that Nancy A. Brown, Bettie McCarty, Mary Ethel McCarty, William E. Brown, Sarah Johnston, Becky Brown, Mary Johnston, Maxie (or Minnie) Hudson, Alice Brown, George Brown, Elsie Brown, William Herman Johnston, Minnie Gertrude Brown, Henry Witen Brown, Fannie G. Brown, Cassell M. Brown, Mandie Brown, Willie Brown, Elbert Knightington Brown, Felly A. Peck, Florence Peck, Oscar Peck, Benjamin Peck, Andrew Peck, Otis Dewey

Secretary 12

Peck, Virgie Peck, George G. Brown, Willie Emma Brown, James B. Nichols, Della May Scott, Nancy V. Nichols, John W. B. Nichols, Louie Herman Nichols, Golda Ula Nichols, Orin M. Nichols, James W. Nichols, Maggie M. Nichols, Mettie Myrtle Nichols, and Lonie A. Nichols should be enrolled as citizens by blood and William B. Brown, Nancy Brown, Eli W. Brown, Amanda Brown, Sarah Brown, Nancy C. Nichols, Bessie Nichols, Amanda M. Nichols and Osa Nichols as citizens by intermarriage of the Choctaw Nation under the provisions of the Acts of Congress approved June 28, 1898 (30 Stat., 495) and July 1, 1902 (32 Stat., 641).

The applications for the enrollment of William A. McCarty, Ollie McCarty, Oscar Lee Johnston, Willie Clarence Brown, Roy Lester Johnston, Edna Arvel Johnston, Teddy Golden Johnston, Rubie Dill Brown, Annie Jewell Brown, Prebbie Peck Cassie Brown, Goldie Brown, Nema May Scott, Lita Lois Scott, Sylvie Jewel Nichols and Oera Lee Nichols were also granted under the provisions of the Act of Congress approved April 26, 1906 (34 Stat., 137).

The application for the enrollment of Andrew J. Peck as a citizen by intermarriage was denied and the application for the enrollment of Daphne Myrtle Nichols as a citizen by blood of the Choctaw Nation was dismissed.

Secretary 13

August 14, 1906, the record in this case, together with the decision of August 13, 1906, was transmitted to the Department.

February 7, 1907, there were transmitted to the Secretary of the Interior schedules of citizens by blood and marriage of the Choctaw Nation containing the names of the persons who were favorably passed upon by the Commissioner to the Five Civilized Tribes August 13, 1906, in the Choctaw enrollment case of William B. Brown, et al., as follows:

Citizens by blood . . .	Nos. 16131 to 16159, inclusive.
Citizens by marriage /	Nos. 1638 to 1645, inclusive.
Minor citizens by blood	Nos. 857 to 872, inclusive.

This case was analogous to the case of Mattie Shockley, et al. (Loula West case) in which this office had been directed to suspend action until the Attorney General had passed upon the questions involved in that case, but inasmuch as the time within which persons could be enrolled and their enrollment approved by the Secretary of the Interior under the provisions of the Act of Congress approved April 26, 1906, was becoming very short, the schedules above described were prepared by this office without waiting for the opinion of the Attorney General and were forwarded to the Department in order that, if the opinion of the Attorney General were favorable, the rights of these applicants might be protected without

Secretary 24

delay, and this office requested, in the event of such favorable opinion of the Attorney General, that these schedules be approved by the Secretary of the Interior.

February 26, 1907, referring to Departmental letter of February 23, 1907 (I T D 4564-1907) requesting this office to forward a list of those persons whose enrollment should be cancelled in view of the opinion of the Attorney General of February 19, 1907, in the Chectaw enrollment cases of Loula West and William C. Thompson, the Commissioner to the Five Civilized Tribes called the attention of the Department to the schedules above described which were forwarded February 7, 1907, and advised that this case was analogous to the case of Loula West. It was, therefore, recommended that the decision of August 13, 1906, be not approved by the Department and that the schedules transmitted with office letter of February 7, 1907, be disapproved by the Secretary of the Interior.

February 28, 1907 (Land 71868-1906, 2220, 14412-1907) the Indian Office forwarded to the Department the record in the case of William B. Brown, et al. together with the schedules transmitted February 7, 1907, and recommended, in view of the opinion of the Attorney General of February 19, 1907, that the decision of the Commissioner of August 13, 1906, in

Secretary 15

so far as it was favorable to the applicants, be reversed and the schedules disapproved, which was done by the Department March 1, 1907 (I T D 5742-1907).

This office has no record of any favorable decision of the Department as to the persons included in this consolidated case.

No formal allotments were made to the persons included in this case but applications were made on their behalf for certain lands which were involved in Chickasaw contest cases. Subsequent to March 4, 1907, these contests were dismissed and on August 31, 1907, a motion to reinstate said contests was denied.

August 29, 1907, the Department advised this office that by letter of August 5, 1907, counsel for the claimants in the case of William B. Brown, et al. requested that the order of the Department of June 14, 1907, in the case of William C. Thompson and others suspending action on claims to allotments of lands be made applicable to them.

September 20, 1907, this office reported that it did not appear that the claimants in the case of William B. Brown, et al. possessed the same status as the claimants in the case of William C. Thompson, et al. as their names had never been upon an approved roll, but that it appeared they occupied

Secretary 16

the same status as the persons included in the case of John H. Gamblin and the case of Angus A. Spring.

October 12, 1907 (I T E 77893-1907) the Indian Office held that the action of the Commissioner to the Five Civilized Tribes in dismissing the contests on behalf of these claimants, and in refusing to reinstate the same, was proper and recommended that he be advised that all applications for allotments on behalf of these persons should be denied and this recommendation was approved by the Department October 14, 1907.

Following these instructions of the Department the lands in contest were awarded to the contestees, and patents therefor were recorded and delivered to them. It is believed, therefore, that these persons, in the event of a favorable decision relative to their enrollment, could not recover the land referred to, and if they are holding or claiming other land this office has no record of such claim.

If they are now in possession of other lands in the Choctaw and Chickasaw Nations, this office will, however, upon the receipt of descriptions thereof, make a record of their claim to the land, pending further action by the Department.

I have further to report that the record in this case is full and complete and it is believed the applicants could

Secretary 17

add nothing material thereto at this time, and that it would work an unjustifiable hardship upon them to notify them now to appear and give further testimony in this case and force upon them the expense of a hearing at this office.

I have not, therefore, forwarded the notices referred to in Departmental letter of March 15, 1909 and Indian Office letter of April 9, 1909, but will await specific instructions from the Department as to its wishes in the matter in accordance with my request of April 14, 1909, in the Mattie Shockley case.

If it is the desire of the Department that notices be forwarded in this case, however, this office will proceed to notify the applicants thereof immediately upon receipt of advice from the Department and will make supplemental report after their replies have been received.

The petition inclosed with Indian Office letter of April 9, 1909, is herewith returned.

Respectfully,

Through the Commissioner
of Indian Affairs.

Commissioner.

1-12903

Land
31790-1909
J.A.D

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS
Washington.

Jan 23, 1909

Enrollment case of
Wm. B. Brown et al.

The Commissioner

to the Five Civilized Tribes,
Muskogee, Oklahoma.

Sir:

Referring to your report of April 20, 1909, relative to the consolidated Choctaw enrollment case of William B. Brown et al., you are advised, that on June 15, 1900, the Department held that the case mentioned was not analogous to that of John B. Goldsby, and did not come within the principles announced by the Supreme Court of the United States in that case, (211 U. S. 249). The Department, therefore declined to take any action looking to the enrollment of any of the applicants in the consolidated case of William B. Brown et al.

A copy of approved Office letter of May 17, 1909, is inclosed for your further information.

You are requested to notify the parties in interest.

Very respectfully,

J. H. Dorth,
Acting Chief Clerk,

WCB-19
2538.

D-7339

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS.
Washington.

C.R.
J.W.
J.V. Jr.
V.R.L.

Land
31790-1909
J & D

Enrollment case of
Wm. B. Brown et al.

May 17, 1909

The Honorable,

The Secretary of the Interior.

Sir:

Referring to Department letter of March 1, 1909, there is transmitted herewith a report dated April 20, 1909, from the Commissioner to the Five Civilized Tribes, relative to the enrollment case of William B. Brown et al. The history of the claim is set out fully in the reports enclosed.

The record shows, among other things, that on August 13, 1906, the Commissioner to the Five Civilized Tribes rendered a decision that Nancy A. Brown, Bettie McCarty, Mary Ethel McCarty, William E. Brown, Sarah Johnston, Becky Brown, Mary Johnston, Wanie (or Minnie) Hudson, Alice Brown, George Brown, Susie Brown, William Brown Johnston, Minnie Gertrude Brown, Henry Witen Brown, Fannie C. Brown, Caswell M. Brown, M. Kandie Brown, Willie Brown, Albert Knightington Brown, Polly A. Peak, Florence Peak, Oscar Peak, Benjamin Peak, Andrew Peak, Otis Dewey Peak, Virgie Peak, George G. Brown, Willie Mena Brown, James N. Nichols, Della May Scott, Nancy V. Nichols, John W.

B. Nichols, Louis Herman Nichols, Golda Ula Nichols, Orin M. Nichols, James W. Nichols, Maggie M. Nichols, Nettie Myrtle Nichols and Lonie A. Nichols should be enrolled as citizens by blood and William B. Brown, Nancy Brown, Eli V. Brown, Amanda Brown, Sarah Brown, Nancy C. Nichols, Bessie Nichols, Amanda W. Nichols and Osa Nichols as citizens by intermarriage of the Choctaw Nation under the provisions of the Acts of Congress approved June 23, 1898 (30 Stat. L. 495) and July 1, 1902 (32 Stat., L. 641).

The applications for the enrollment of William A. McCarty, Ollie McCarty, Oscar Lee Johnston, Willie Clarence Brown, Ray Lester Johnston, Mena Arvel Johnston, Teddy Golden Johnston, Rubie Mill Brown, Annie Jewell Brown, Prebble Peck, Cassie Brown, Goldie Brown, Wema May Scott, Lita Lois Scott, Sylvie Jewel Nichols and Cora Lee Nichols were also granted under the provisions of the Act of Congress approved April 26, 1906 (34 Stat. L. 137).

The application for the enrollment of Andrew J. Peck as a citizen by intermarriage was denied and the application for the enrollment of Daphne Myrtle Nichols as a citizen by blood of the Choctaw Nation was dismissed.

It appears that on August 14, 1906, the record in the case, together with the decision, was forwarded by the Com-

missioner to the Five Civilized Tribes, and that on February 7, 1907, he transmitted to the Department schedules of citizens of the Choctaw Nation by blood and by marriage, containing the names of persons who were favorably passed upon by him in his decision of August 13, 1906, in this case. It appears also that on February 26, 1907, the Commissioner, referring to Department letter of February 23, 1907, invited the Department's attention to the above-mentioned schedules, and to the Choctaw enrollment case of William B. Brown, et al., and recommended, in view of the opinion of the Attorney General dated February 19, 1907, in the Loula West and other cases, that his decision of August 13, 1906, be not approved, and that the schedules referred to be disapproved.

On March 1, 1907, the Department reversed the decision of the Commissioner so far as it was favorable to the applicants, and disapproved the schedules containing their names.

The Commissioner to the Five Civilized Tribes reports further that his office has no record of any favorable decision of the Department as to the persons included in this case.

It appears also that their names have never been placed upon any roll or schedule of citizens of the Choctaw Nation prepared by the Commissioner to the Five Civilized Tribes and approved by the Department.

L-21790-4

The Office concurs in the view of the Commissioner to the Five Civilized Tribes that as the record in the case is a complete one, the applicants could add nothing material thereto at this time, and to have them appear at his office to give further testimony would only make additional expense for them and work a hardship without any benefits accruing therefrom.

On April 9, 1909, the Office requested the Commissioner to the Five Civilized Tribes to take no steps pending the preparation of his report concerning the enrollment case of William E. Brown, et al toward the issuance of a patent to any adverse party in interest to the lands occupied by the applicants in the above mentioned case. The Commissioner was also requested to instruct the United States Indian Agent, at Union Agency, to suspend action, if any was contemplated, toward dispossessing the applicants of the lands occupied by them until further advised by the Department.

The Commissioner reports that no formal allotments were made to the persons included in the above case, but that applications were made in their behalf for certain lands which were involved in Chickasaw contest cases. The contests in behalf of these claimants were dismissed by the Commissioner to the Five Civilized Tribes, and on October 12, 1907, the Office held that the action of the Commissioner was proper, and recommended that he be advised that all applications for

L-31790-2

allotments in behalf of these persons should be denied.

This recommendation was approved by the Department on October 14, 1909. It appears from the report of the Commissioner to the Five Civilized Tribes that the lands in contest were awarded to the contestees and patents therefor were recorded and delivered to them. Title having passed to the contestees, the Department is now without authority to place or permit the applicants in the William B. Brown case to remain in possession of the lands covered by the patents issued to the contestees, even in the event of the Department rendering a favorable decision relative to their enrollment.

The Commissioner reports that his office has no record of the applicants in the case mentioned holding or claiming possession of any other lands in the Choctaw or Chickasaw Nations, but says that if they are in occupancy of such other lands his office will, upon receipt of a description thereof, make a record of the claims pending further action by the Department.

The Office is of the opinion that the case of William B. Brown, et al., is not analogous to that of John B. Goldsby, and that it does not come within the principles announced by the Supreme Court of the United States in its decision of November 30, 1908, in that case (211 U. S. 249.)

L-21750-6

It is therefore recommended that the Department take no action looking to the enrollment of any of the applicants included in the consolidated case of William J. Brown, et al.

The record in the case, and other papers pertaining thereto, are transmitted herewith for your further information.

Very respectfully,

D. G. Valentine,

Acting Commissioner.

RMS 11

891

WUP June 15, 1909 JWM
Approved:

Frank Pierce,
First Assistant Secretary. WUP

Mustage, Oklahoma, June 29, 1909.

Caswell M. Brown,
Robberson, Oklahoma.

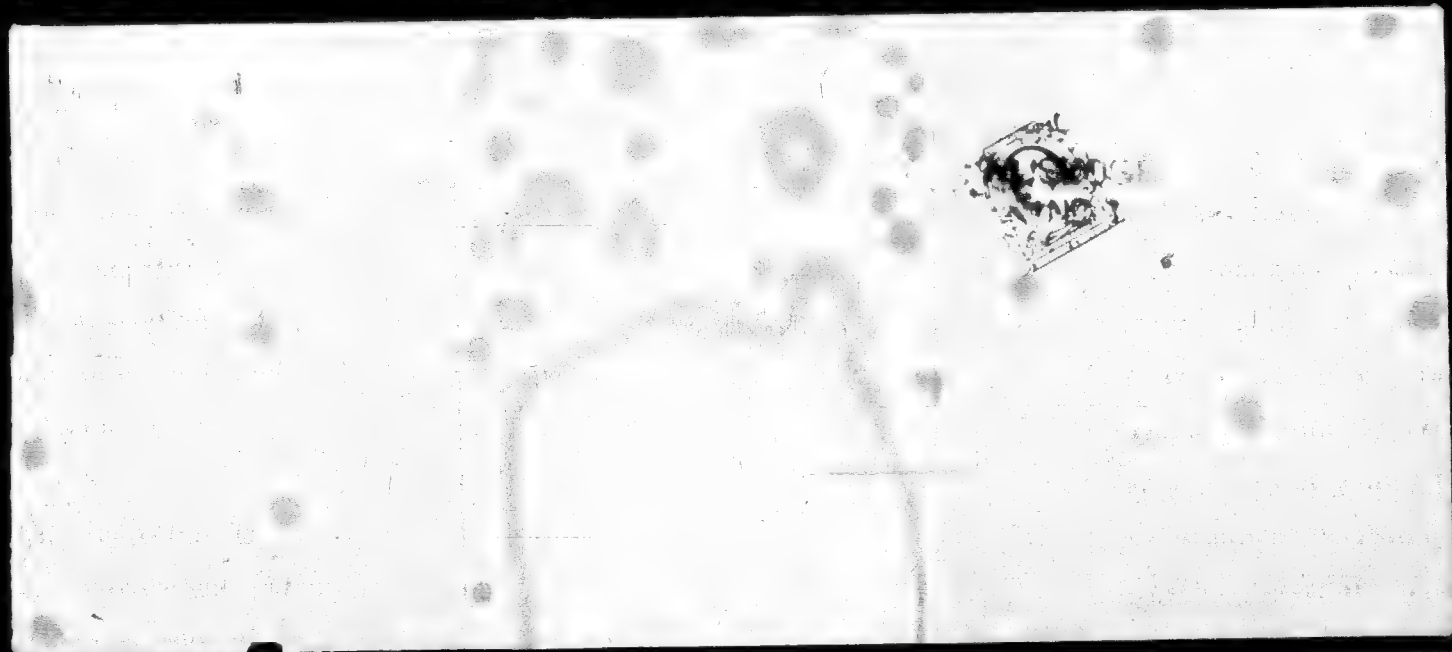
Sir:

You are hereby notified that on June 15, 1909, the Secretary of the Interior held that the Choctaw enrollment case of William B. Brown et al., with which your case was consolidated, was not analogous to that of John E. Goldsby (211 U.S. 249), and declined to take any action looking to the enrollment of the applicants therein under the opinion of the Supreme Court of the United States of November 30, 1908, in said Goldsby case.

Respectfully,

Commissioner.

W.B.B.



Choctaw 6023

Polly A. Peak

6023

Trans. from Choc. Card 5062

See petition #C 34 duplicate record
bound

8-13-06 granted 3-1-07 decision of
Commissioners reversed and schedule
Containing names of applicants disapproved

3-1-09 Dept. requests report

4-20-09 Report To Dept.

6-15-09 Dept. holds cases not analogous to
Goldsby case and declines to take action
looking to enrollment of applicants

6-29-09 Parties notified

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of
William B. Brown, et al., as citizens of the Choctaw Nation, con-
solidating the applications of

William B. Brown, et al.	7-5096,
William H. Brown, et al.	7-5060,
Eli W. Brown, et al.	7-D-432,
Caswell M. Brown, et al.	7-5066
Andrew J. Peck, et al.	7-5062
George G. Brown, et al.	7-5095
James B. Nichols, et al.	7-5100,
John W. B. Nichols, et al.	7-5097
Orin M. Nichols, et al.	7-5061,
Osa Nichols, et al.	7-D-509.

DECISION.

It appears from the census card records in this case that on September 22, 1898, application was made to the Commission to the Five Civilized Tribes for the enrollment of William B. Brown (sixty-one years of age), as a citizen by intermarriage of the Choctaw Nation, and for the enrollment of his two children, Nancy A. Brown (twenty-three years of age) and Bettie Brown, now McCarty (nineteen years of age), as citizens by blood of the said nation; on September 22, 1898, for the enrollment of William H. Brown (thirty-nine years of age), and his seven minor children, Sarah Brown, now Johnston (eighteen years of age), Becky Brown (sixteen years of age), Mary Brown, now Johnston (thirteen years of age), Mamie (or Minnie)

Brown, now Hudson (eleven years of age), Alice Brown (eight years of age), George Brown (five years of age) and Susie Brown (one year of age), as citizens by blood of the Choctaw Nation, and for the enrollment of Nancy Brown (thirty-six years of age) as a citizen by intermarriage of said Nation; on September 8, 1898, for the enrollment of Eli W. Brown (twenty-eight years of age) as a citizen by intermarriage of the Choctaw Nation; on September 22, 1898, for the enrollment of Caswell M. Brown (thirty-four years of age), and his two minor children, Hattie (ten years of age) and Willie Brown (six years of age), as citizens by blood of the Choctaw Nation, and on October 18, 1898, for the enrollment of his wife, Amanda Brown (thirty-one years of age), as a citizen by intermarriage of said nation; on September 22, 1898, for the enrollment of Andrew J. Peck (thirty-two years of age) as a citizen by intermarriage of the Choctaw Nation, and for the enrollment of his wife, Pelly A. Peck (thirty years of age), and his five minor children, Florence (nine years of age), Oscar (seven years of age), Benjamin G. (five years of age), Andrew (three years of age), and Otis Dewey Peck (two months of age), as citizens by blood of said nation; on September 22, 1898, for the enrollment of George G. Brown (twenty-six years of age), and his minor daughter, Willie Emma Brown (three years of age), as citizens by blood of the Choctaw Nation, and for the enrollment of his wife, Sarah Brown (twenty-one years of age), as a citizen by intermarriage of said nation; on September 22, 1898, for the enrollment of James B. Nichols (forty-eight years of age), and his two minor children, Della May Nichols, now Scott (fourteen years of age), and Nancy V. Nichols (seven years of age), as citizens by blood of the Choctaw Nation, and for the enrollment of his wife, Nancy C. Nichols, (forty-two years of age), as a

citizens by intermarriage of said nation; on September 22, 1898 for the enrollment of John W. B. Nichols (twenty-four years of age) as a citizen by blood of the Choctaw Nation, and for the enrollment of his wife, Bessie Nichols (eighteen years of age), as a citizen by intermarriage of said nation; on September 22, 1898, for the enrollment of Orin M. Nichols (forty-four years of age), and his four minor children, James W. (eighteen years of age), Maggie M. (twelve years of age), Nettie Myrtle (eight years of age), and Lennie A. Nichols (four years of age), as citizens by blood of the Choctaw Nation, and for the enrollment of his wife, Amanda M. Nichols (thirty-eight years of age), as a citizen by intermarriage of said nation; and on September 25, 1899, for the enrollment of Osa Nichols (seventeen years of age) as a citizen by intermarriage of the Choctaw Nation.

Applications were subsequently made for the enrollment of the following minor applicants as citizens by blood of the Choctaw Nation: On January 20, 1902, for the enrollment of Mary Ethel McCarty (born December 8, 1901); on May 31, 1904, for the enrollment of William A. McCarty (born April 21, 1904) and Ollie McCarty (born February 14, 1904); on October 13, 1900, for the enrollment of William Erman Johnston (born June 30, 1900); on October 19, 1900, for the enrollment of Minnie Gertrude Brown (born August 13, 1900); on May 16, 1901, for the enrollment of Fannie C. Brown (born February 11, 1901); on April 29, 1905, for the enrollment of Oscar Lee Johnston (born November 14, 1902); on April 29, 1905, for the enrollment of Willie Clarence Brown (born April 8, 1903); on July 12, 1902, for the enrollment

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Henry Hiten Brown, (born May 21, 1902); on April 29, 1905, for the enrollment of Roy Lester Johnston (born October 28, 1903); on May 21, 1906, for the enrollment of Mina Arvel Johnston (born March 21, 1905); on April 14, 1905, for the enrollment of Rubie Dill Brown (born February 12, 1904); in 1899, for the enrollment of Elbert Knightington Brown (born October 8, 1899); on April 7, 1905, for the enrollment of Annie Jewell Brown (born December 2, 1902); on December 10, 1901, for the enrollment of Virgie Peak (born October 11, 1901); on April 8, 1905, for the enrollment of Prebble Peak (born February 19, 1904); on May 21, 1906, for the enrollment of Cassie Brown (born May 30, 1900) and Goldie Brown (born September 5, 1904); on April 17, 1905, for the enrollment of Nema May Scott (born May 15, 1903) and Lita Lois Scott (born February 1, 1906); on September 1, 1900, for the enrollment of Louie Herman Nichols (born August 19, 1900); on December 27, 1901, for the enrollment of Golda Ula Nichols (born September 15, 1901); on April 1, 1905, for the enrollment of Sylvie Jewel Nichols (born August 28, 1903); on April 14, 1905, for the enrollment of Cera Lee Nichols (born November 6, 1902); on April 6, 1901, for the enrollment of Daphne Myrtle Nichols (born February 20, 1901; and on May 21, 1906, for the enrollment of Teddy Golden Johnston (born June 15, 1905).

It appears from the records of the Commission to the Five Civilized Tribes that on September 9, 1896, in the case entitled "Nancy Cooper, et al. vs. Choctaw Nation" (1896 Choctaw Citizenship Docket, Case No. 1416), original application was made to said Commission, under the provisions of the Act of Congress approved June 10, 1896 (29 Stat., 321), for admission to

citizenship in the Choctaw Nation of the applicants, Nancy A. Brown (as Nancy Alice Brown), Bettie McCarty (as Rebecca Elizabeth Brown), William H. Brown (as William Hiten Brown), Sarah Johnston (as Sarah Elizabeth Brown), Becky Brown (as Rebecca Catherine Brown), Mary Brown (as Mary Arrillie Brown), Mamie (or Minnie) Hudson (as Minnie Ann Brown), Alice Brown, George Brown (as George Montgomery Brown), Caswell M. Brown, Maudie Brown (as Mandy E. Brown), Willie Brown (as William G. Brown), Pelly A. Peck (as Pelly Ann Peck), Florence Peck (as Minnie F. Peck), Oscar Peck (as Oscar S. Peck), Benjamin Peck (as Benjamin G. Peck), Andrew Peck, George G. Brown, Willia Emma Brown, James B. Nichols (as James Bruton Nichols), Della May Scott (as Mary Della May Nichols), Nancy W. (Nannie Vilma Nichols), John W. B. Nichols (as John William Bethuel Nichols), Orin M. Nichols (as Orrin Maybery Nichols) James W. Nichols (as James Willis Nichols), Maggie M. Nichols (as Maggie May Nichols), Nettie Myrtle Nichols, Lonie A. Nichols (as Lena Alta Nichols), as citizens by blood of said nation, and for the admission of William B. Brown, Nancy J. Brown (as Nancy Jane Brown), Amanda Brown, Andrew J. Peck (as A. J. Peck), Sarah Brown, Nancy C. Nichols (as Nancy Caroline Nichols), and Amanda M. Nichols (as Amanda Melvina Nichols), as citizens by intermarriage of said nation; and that on December 8, 1896, said Commission rendered its decision therein, denying the application of the above named applicants for enrollment as citizens of the Choctaw Nation.

From the decision of said Commission an appeal was taken to the United States Court for the Southern District of Indian Territory, which court on December 27, 1897, in the case

entitled "Nancy J. Cooper, et al. vs. Choctaw Nation" (Southern District Citizenship Case No. 96), admitted Nancy A. Brown (as Nancy Alice Brown), Bettie McCarty (as Bettie Brown), Sarah Johnson (as Sarah Brown), Becky Brown, Mary Brown, Mamie (or Minnie) Hudson (as Mamie Brown), Alice Brown, George Brown, Susie Brown, Caswell M. Brown (as Caswell Marion Brown), Maudie Brown, Willie Brown, Polly A. Peck (as Polly Ann Peck), Florence Peck, Oscar Peck, Benjamin Peck (as Benjamin Grant Peck), Andrew Peck, George G. Brown, Willie Emma Brown, James B. Nichols (as James Bruton Nichols), Della May Scott (as Dell May Nichols), Nancy V. Nichols (as Nancy Valmor Nichols), Orin M. Nichols (as Orin Mayberry Nichols), James W. Nichols (as James Willis Nichols), Maggie M. Nichols (as Maggie May Nichols), Nettie Myrtle Nichols (as Myrtle Nichols), and Lonie A. Nichols (as Lonie Alta Nichols), as citizens by blood of the Choctaw Nation, and William B. Brown (as William Huford Brown), Andrew J. Peck (as Andrew Jackson Peck), and Nancy C. Nichols (as Nancy Caroline Nichols), as citizens by intermarriage of said nation, and denied the applications for the admission of Nancy J. Brown (as Nancy Jane Brown), Sarah Brown, and Amanda M. Nichols (as Amanda Melvina Nichols), as citizens by intermarriage of the Choctaw Nation. The name of the applicant, Susie Brown, was interpolated in the judgment of said court, she not having been an applicant before the Commission to the Five Civilized Tribes in 1896.

On March 18, 1898, said case again came before said court upon a motion of the plaintiff's attorneys to correct the judgment of said court rendered December 23, 1897, and the court, thereupon, ordered said judgment corrected so as to admit the

applicants, Nancy J. Brown (as Nancy Jane Brown), Sarah Brown, Amanda M. Nichols (as Amanda Melvina Nichols), as citizens by intermarriage of the Choctaw Nation.

On September 28, 1898, said court rendered a supplemental judgment admitting Amanda Brown as a citizen by intermarriage of the Choctaw Nation.

On January 17, 1900, this cause again came before said court upon a motion of the defendant to strike out of the judgment theretofore rendered, certain names improperly admitted to citizenship, and said court being fully advised, ordered that the following names, Essie Brown, Andrew J. Peck as (Andrew Jackson Peck), Bettie McCarty (as Bettie Brown), and Becky Brown, be stricken from said former judgment.

Subsequently, upon the representation of the plaintiffs' attorneys that certain persons who were original applicants were by oversight or mistake left out of the original judgment theretofore rendered, the court ordered that the applicants, Nancy J. Brown (as Nancy Jane Brown,), Sarah Brown, Amanda Brown, Amanda M. Nichols and Rebecca E. Brown be admitted to citizenship in the Choctaw Nation.

It further appears from the records of said Commission that on December 17, 1902, the Choctaw and Chickasaw Citizenship Court, created under the provisions of the Act of Congress approved July 1, 1902 (32 Stats., 641), "set aside, annulled, vacated and held for naught" the aforesaid judgment of the United States Court for the Southern District of Indian Territory.

Thereafter, the record in the above case was certified to the Choctaw and Chickasaw Citizenship Court, for a trial de novo, which court, on November 29, 1904, in the case entitled, "William

Heighten Brown, et al. vs. Choctaw and Chickasaw Nations" (Choctaw Chickasaw Citizenship Court Case No. 73, Tishomingo Docket), "ordered, adjudged and decreed that the petition of the plaintiffs, William Heighten Brown (or William Knighton Brown), Caswell Marion Brown, Polly Ann Peck (nee Brown), George R. Brown (or George G. Brown), Honey Ellis Brown (or Honey Alice Brown), Sarah Brown, Mary Brown, Menie Brown (or Mamie Brown), Alice Brown, George Brown, Mondie Brown (or Mandie Brown), Willie Brown, Florence Peck, Oscar Peck, Benjamin Grant Peck, Andrew Peck, William Emma Brown (or Willie Emma Brown), James Hurton Nichols, (or James Bruton Nichols), Oney Mayberry Nichols (or Orin Mayberry Nichols), John William Beffle Nichols, Della May Nichols, Nancy Velmer Nichols, James Willis Nichols, Maggie May Nichols, Myrtle Nichols, Lenie Alta Nichols, William Buford Brown, Nancy Carolino Nichols, Rebecca E. Brown (or Becky Brown), Rebecca C. Brown (or Rebecca Brown), Amanda Melvina Nichols, Amanda Brown, Nancy J. Brown (or Nancy Jane Brown), Sarah Brown, be denied, and that they be declared not citizens of the Choctaw Nation, and not entitled to enrollment as such citizens, and not entitled to any rights whatever flowing therefrom."

On December 12, 1904, orders were entered of record by the Commission to the Five Civilized Tribes dismissing the applications for the enrollment of Mary E. McCarty, William Ernan Johnston, Minnie Gertrude Brown, Henry Hiten Brown, Elbert Knightington Brown, Otis Dewey Peck, Virgie Peck, Louis Herman Nichols and Golda Ula Nichols as citizens by blood of the Choctaw Nation, and on March 18, 1905, an order was entered of record dismissing the application for the enrollment of Fannie C. Brown as a citizen by

blood of said nation. All of said applicants were dismissed for the reason that their parents through whom they claim their rights to enrollment as citizens by blood of the Choctaw Nation, had been denied by a decree of the Choctaw and Chickasaw Citizenship Court.

On December 12, 1904, orders were entered of record by the Commission to the Five Civilized Tribes dismissing the applications for the enrollment of Eli W. Brown, Bessie Nichols and Osa Nichols as citizens by intermarriage of the Choctaw Nation, for the reason that the persons through whom they claim their rights had also been denied by a decree of the Choctaw and Chickasaw Citizenship Court.

On March 30, 1905, the Commission to the Five Civilized Tribes denied the application for the enrollment of Susie Brown as a citizen by blood of the Choctaw Nation, and on April 6, 1906 (I.T.D. 5810-1906), the Department set aside said decision of the Commission and returned the record to this office for a full investigation upon its merits.

Under the regulations adopted by the Commissioner to the Five Civilized Tribes of January 2, 1906, there was filed on February 6, 1906, by Cruse, Cruse and Eleakmore, of Ardmore, Indian Territory, attorneys for the petitioners, petitions praying that William B. Brown, Nancy A. Brown, Minnie Hudson, Sarah Johnston, Oscar Lee Johnston, William Erman Johnston, Rebecca Brown, Minnie Gertrude Brown, Henry Witen Brown, Rubie Dill Brown, Eli W. Brown, Mary A. Johnston, Roy Lester Johnston, Edna A. Johnston, Rebecca McCarty, William A. McCarty, Mary E. McCarty, William N. Brown, Nancy Jane Brown, George Brown, Alice Brown, Susie Brown, Cletus Brown, Clarence Brown, A. J. Peck, Polly Ann Peck, Minnie Peck, Oscar Sherman Peck, Benjamin Grant Peck, Andrew Peck, O. D. Peck,

Virgie Peck, Prebble Peck, C. M. Brown, Annaday Brown, Mandy Brown, William Brown, Elbert K. Brown, Annie Jewel Brown, George G. Brown, Sarah Brown, Willie Emma Brown, Cassie Brown, Goldie Brown, J. B. Nichols, Nancy Nichols, Belma Nichols, John W. B. Nichols, Bessie Beaton Nichols, Louie Herman Nichols, Golda Kula Nichols, Silva Jewel Nichols, Della May Scott, Nema Scott, Orin M. Nichols, Amanda Nichols, Myrtle Nichols, Lemie Nichols, James W. Nichols, Osa Nichols, Cora Lee Nichols and Maggie Angel be enrolled as citizens of the Choctaw Nation.

All of the above petitioners, with the exception of Ollie McCarty, Lita Leis Scott, Daphne Myrtle Nichols and Teddy Golden Johnston, are identical with the applicants for whom application has been made for enrollment as citizens of the Choctaw Nation.

On April 16, 1906, the principal petitioners, their attorneys, Cruce, Cruce & Blackmore, of Ardmore, Indian Territory, and Messrs. Mansfield, McMurray & Cornish, attorneys for the Choctaw and Chickasaw Nations, of South McAlester, Indian Territory, were advised that the Commissioner to the Five Civilized Tribes would at his office at Muskogee, Indian Territory, on Monday, May 14, 1906, at nine o'clock A.M., hear such testimony and receive such other evidence as might be submitted by the petitioners in support of their applications for enrollment as citizens of the Choctaw Nation, and by the attorneys for the Choctaw and Chickasaw Nations.

On April 16, 1906, William M. Brown, father of Susie Brown, Cruce, Cruce & Blackmore, attorneys for said Susie Brown, and Mansfield, McMurray & Cornish, attorneys for the Choctaw and Chickasaw Nations, were advised that on April 6, 1906, the Department set aside the decision rendered by the Commission on March 20, 1906, and returned the record in said case with in-

instructions that a full investigation be made of the rights of said Susie Brown to enrollment as a citizen by blood of the Choctaw Nation, that the testimony of creditable witnesses be required showing her Choctaw blood, if any, the time and place of her birth, her various residences, her ancestors, the privileges, if any, enjoyed by her and her parents as citizens of the Choctaw Nation, and notified that the Commissioner to the Five Civilized Tribes would at his office at Muskogee, Indian Territory, on Monday, May 14, 1906, at nine o'clock A.M., hear such testimony and receive such other evidence as might be submitted in support of said application, investigation to be conducted along the lines indicated by Department letter above referred to.

On motion of Attorney for applicants, the hearing in the matter of the above application was continued on April 26, 1906, to May 21, 1906.

On May 21, 1906, proceedings were had in the matter of said applications in pursuance to the notices above mentioned.

It appears from the record herein that the applicants, William H. Brown, Caswell M. Brown, Polly Ann Peck, George G. Brown, Nancy A. Brown and Bettie McCarty, are the children of the principal applicant, William B. Brown, and Rebecca Cooper (now deceased), who is alleged to have been a Choctaw Indian, and the daughter of William Cooper, who was the son of Johnny Cooper, an alleged Choctaw Indian, who resided near the line between the states of Tennessee and Mississippi; that Sarah Johnston, Becky Brown, Mary Johnston, Mamie (or Minnie) Hudson, Alice Brown, George Brown, Susie Brown, Fannie C. Brown and Willie Clarence Brown, are the children of the applicants

William N. Brown and Nancy J. Brown, (the latter an applicant for intermarried rights); that William Erman, Oscar Lee and Teddy Golden Johnston are the children of the applicant, Sarah Johnston, and J. A. Johnston, a non-citizen; that Minnie Gertrude, Henry Niten and Rubie Dill Brown are the children of the applicants, Becky Brown and Eli W. Brown, (the latter an applicant for intermarried rights); that Roy Lester and Edna Arvel Johnston are the children of the applicant, Mary Johnston, and Jace J. Johnston, a non-citizen; that Mandie, Willie, Elbert Knightington, and Annie Jewell Brown are the children of the applicant, Cassell M. Brown and Amanda Brown (the latter an applicant for intermarried rights); that Florence, Oscar, Benjamin, Andrew, Otis Dewey Virgie and Prebble Peck are the children of the applicant, Polly Ann Peck and Andrew J. Peck (the latter an applicant for intermarried rights); that Willie Emma, Cassie and Goldie Brown are the children of the applicants, George G. Brown and Sarah Brown (the latter an applicant for intermarried rights); that Mary Ethel, William A. and Ollie McCarty are the children of the applicant, Bettie McCarty, and Oliver McCarty, a non-citizen; that James B. Nichols and Orin H. Nichols are the children of Wilson Nichols (now deceased), a non-citizen, and Delitha Cooper (now deceased), who is alleged to have been a Choctaw Indian and the daughter of John Cooper, above referred to; that John W. H. Nichols, Della May Scott and Nancy V. Nichols are the children of the applicant, James B. Nichols and Nancy C. Nichols (the latter an applicant for intermarried rights); that Louis Herman, Golda Ula and Sylvie Jewel Nichols are the children of the applicant, John W. H. Nichols and Bessie Nichols (the latter an applicant for

intermarried rights); that Nema Vay and Lita Lois Scott are the children of the applicant, Della May Scott, and Burris Scott, a non-citizen; that James W., Maggie M., Nettie Myrtle and Lonie A. Nichols are the children of the applicant, Orin M. Nichols and Amanda M. Nichols (the latter an applicant for intermarried rights); and that the applicants, Cora Lee and Daphne Myrtle Nichols, are the children of the applicants, James W. Nichols and Osa Nichols (the latter an applicant for intermarried rights).

The applicant, William B. Brown, claims his right to citizenship in the Choctaw Nation by the virtue of his marriage on February 10, 1858, under the laws of the state of Arkansas, to Becky Cooper (now deceased); that Nancy Brown claims her right to enrollment as a citizen by intermarriage by virtue of her marriage to the applicant, William B. Brown, on September 21, 1879; that Eli W. Brown claims his right to enrollment as a citizen by intermarriage by virtue of his marriage on August 21, 1899, under the laws, customs and usages of the Chickasaw Nation to the applicant, Becky Brown, both of said applicants being at said time residents in good faith of the Chickasaw Nation; that Amanda Brown claims her right to enrollment as a citizen by intermarriage by virtue of her marriage on December 2, 1886, to the applicant, Caswell M. Brown; that Andrew J. Peck claims his right to enrollment as a citizen by intermarriage by virtue of his marriage on December 15, 1887, under the laws of the state of Arkansas to the applicant, Polly A. Peck; that Sarah Brown claims her right to enrollment as a citizen by intermarriage by virtue of her marriage to George G. Brown on June 9, 1895; that the applicant, Nancy C. Nichols claims her right to enrollment as a citizen by intermarriage by virtue of her marriage to the applicant, James B.

Nichols, on March 9, 1873; that the applicant, Bessie Nichols, claims her right to enrollment as a citizen by intermarriage by virtue of her marriage on September 11, 1898, to the applicant, John W. B. Nichols; that Amanda M. Nichols claims her right to enrollment as a citizen by intermarriage by virtue of her marriage on October 20, 1878, to the applicant, Orin E. Nichols; and that Osa Nichols claims her right to enrollment as a citizen by intermarriage by virtue of her marriage on April 27, 1899, to the applicant, James W. Nichols.

It does not appear from the record herein or from the records in the possession of this office that the applicant, Andrew J. Peck, has ever been admitted to Choctaw citizenship by a duly constituted court or committee of the Choctaw Nation, nor has said applicant ever been married to Polly Ann Peck, through whom he claims his intermarried rights, by virtue of a license issued by the tribal authorities of either the Choctaw or Chickasaw Nation.

At the hearing before the Commissioner to the Five Civilized Tribes on May 21, 1906, William S. Brown, Cassell M. Brown, James B. Nichols and Orin E. Nichols testified that in 1894, they, together with the other applicants herein who were living at said time, petitioned the Choctaw Council for admission as citizens of the Choctaw Nation; that no action having been taken thereon, they, in 1896, appeared before the Choctaw Census Commission and made application to be enrolled upon the 1896 Choctaw Census Roll; and that some time in January, 1897, they received a certificate from the Secretary of the Choctaw Revisionary Board, wherein it appeared that they had been enrolled upon the 1896 Choctaw Census Roll. Said applicants further testified

that prior to 1896 they had been permitted to issue permits for their tenants, held lands, and were not subject to any tribal tax which was due from all non-citizens who were engaged in the mercantile business.

On June 4, 1906, John H. Gamblin testified that he was acquainted with the applicants herein, and that in October 1894, he having business before the Choctaw Council, presented on behalf of the applicants herein who were living at that time, a petition praying that they be admitted as citizens of the Choctaw Nation, and that he does not know what action, if any, was ever taken thereon.

Upon an examination of the tribal rolls of the Choctaw Nation in the possession of this office, it appears that the applicants, William B. Brown, William N. Brown, Nancy J. Brown, Cassell Y. Brown, Amanda Brown, Polly Ann Peck, Andrew J. Peck, George G. Brown, Sarah Brown, Nancy A. Brown, Bettie McGarty, Sarah Johnston, Becky Brown, Mary Johnston, Mamie (or Minnie) Hudson, Alice Brown, George Brown, Susie Brown, Maudie Brown, Willie Brown, Florence Peck, Oscar Peck, Benjamin Peck, Andrew Peck, James B. Nichols, Nancy C. Nichols, Orin M. Nichols, Amanda M. Nichols, John W. B. Nichols, Della May Scott, Nancy V. Nichols, James W. Nichols, Maggie M. Nichols, Nettie Myrtle Nichols and Lonie A. Nichols, are identified upon the 1896 Choctaw Census Rolls opposite Numbers 1688, 1691, 1692, 1701, 1702, 10513, 10517, 1705, 1706, 1659, 1690, 1693, 1694, 1695, 1696, 1697, 1698, 1699, 1703, 1704, 10519, 10520, 10521, 10522, 9803, 9808, 9812, 9813, 9809, 9810, 9811, 9814, 9815, 9816, and 9817, respectively.

It further appears from the record herein that all of

the applicants, that were living on June 28, 1900, were residents in good faith of the Indian Territory on said date.

The evidence in this case further shows that the applicant, Daphne Myrtle Nichols, died on June 27, 1901.

I am of the opinion that in accordance with the opinions of the Assistant Attorney General for the Department of the Interior of February 10, 1905 (I.T.D. 10353-1904), and December 8, 1905 (I.T.D. 3693-1905), in the case of Lula West, the action of the Commission to the Five Civilized Tribes, and the subsequent action of the United States Court for the Southern District of Indian Territory, and the Choctaw and Chickasaw Citizenship Court, upon the right of the applicants who applied to the Commission to the Five Civilized Tribes in 1896, with the exception of Andrew J. Peck, was without authority of law, and of no force and effect upon the status of said applicants as citizens of the Choctaw Nation.

I am further of the opinion that the orders of the Commission to the Five Civilized Tribes of December 12, 1904 and March 18, 1905, dismissing the applications for the enrollment of Mary E. McCarty, William Erman Johnston, Winnie Gertrude Brown, Fannie C. Brown, Henry Witen Brown, Elbert Knightington Brown, Otis Dewey Peck, Virgie Peck, Louis Herman Nichols and Golda Ula Nichols as citizens by blood of the Choctaw Nation, and Eli W. Brown, Bessie Nichols and Osa Nichols as citizens by intermarriage of the Choctaw Nation, should be rescinded.

I am further of the opinion that in accordance with the opinions of the Assistant Attorney General for the Department of the Interior of March 3, 1906 (I.T.D. 187-1905) and March 10,

1906 (7.T.D. 9969-1906), Nancy A. Brown, Bettie McCarty, Mary Ethel McCarty, William N. Brown, Sarah Johnston, Becky Brown, Mary Johnston, Mamie (or Minnie) Hudson, Alice Brown, George Brown, Susie Brown, William Ermar Johnston, Minnie Gertrude Brown, Henry Witen Brown, Fannie C. Brown, Caswell M. Brown, Paulie Brown, Willie Brown, Elbert Knightington Brown, Polly A. Peck, Florence Peck, Oscar Peck, Benjamin Peck, Andrew Peck, Otis Dewey Peck, Virgie Peck, George G. Brown, Willie Emma Brown, James B. Nichols, Della May Scott, Nancy W. Nichols, John W. B. Nichols, Louie Herman Nichols, Golda Ula Nichols, Oran M. Nichols, James W. Nichols, Maggie M. Nichols, Nettie Myrtle Nichols and Lonie A. Nichols should be enrolled as citizens by blood of the Choctaw Nation, under the provisions of the Acts of Congress approved June 28, 1898 (30 Stats., 495), and July 1, 1902 (32 Stats., 641), and it is so ordered.

I am further of the opinion that William B. Brown, Nancy Brown, Eli W. Brown, Amanda Brown, Sarah Brown, Nancy C. Nichols, Beanie Nichols, Amanda M. Nichols and Osa Nichols should be enrolled as citizens by intermarriage of the Choctaw Nation, under the provisions of the Acts of Congress approved June 28, 1898 (30 Stats., 495) and July 1, 1902 (32 Stats., 641), and it is so ordered.

I am further of the opinion that the application made for the enrollment of Andrew J. Peck as a citizen by intermarriage of the Choctaw Nation should be denied, under the provisions of the Act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered.

I am further of the opinion that William A. McCarty, Ollie McCarty, Oscar Lee Johnston, Willie Clarence Brown, Roy

Lester Johnston, Edna Arvel Johnston, Teddy Golden Johnston, Rubie Dill Brown, Annie Jewell Brown, Prebble Peck, Cassie Brown, Goldie Brown, Emma May Scott, Lita Lois Scott, Evelyn Jewel Nichols and Cora Lee Nichols should be enrolled as citizens by blood of the Cheetaw Nation, under the provisions of the Act of Congress approved April 26, 1906 (Public No. 129), and it is so ordered.

I am further of the opinion that the application made for the enrollment of Dagmar Myrtle Nichols as a citizen by blood of the Cheetaw Nation should be dismissed, and it is so ordered.

Yama Dixby,
COMMISSIONER.

Muskogee, Indian Territory,
Aug. 13, 1906.

7-5062

COPY

Muskogee, Indian Territory, August 13, 1906.

Andre. T. Peck,
Duncan, Indian Territory.

Dear Sir:

Inclosed herewith you will find a copy of the decision of the Commissioner to the Five Civilized Tribes, rendered August 13, 1906, granting the application for the enrollment of your wife, Polly A. Peck, Otis Dewey Peck, Virgie Peck, and Prebble Peck, as citizens by blood, and denying your application for enrollment as citizen by intermarriage, of the Choctaw Nation.

The decision, with the record of proceedings in the case, is this day transmitted to the Secretary of the Interior for review. The final decision of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

Tamie Biny

Commissioner.

Registered.

HAH 14/13

Muskogee, Indian Territory, August 13, 1906.

Cruce, Cruce & Bleakmore,
Attorneys at Law,
Ardmore, Indian Territory,
Gentlemen:

Inclosed herewith you will find a copy of the decision of the Commissioner to the Five Civilized Tribes, rendered August 13, 1906, granting the applications for the enrollment of Nancy A. Brown, Nettie McCarty, Mary Ethel McCarty, William N. Brown, Sarah Johnston, Becky Brown, Mary Johnston, Mamie (or Minnie) Hudson, Alice Brown, George Brown, Susie Brown, William Erman Johnston, Minnie Gertrude Brown, Henry Niten Brown, Fannie C. Brown, Caswell M. Brown, Maudie Brown, Willie Brown, Elbert Knightington Brown, Pelly A. Peck, Florence Peck, Oscar Peck, Benjamin Peck, Andrew Peck, Otis Dewey Peck, Virgie Peck, George G. Peck, Willie Emma Brown, James B. Nichols, Della May Scott, Nancy V. Nichols, John W. B. Nichols, Louis Herman Nichols, Gelda Ula Nichols, Orin M. Nichols, James W. Nichols, Maggie M. Nichols, Mattie Myrtle Nichols, Lonie A. Nichols, William A. McCarty, Ollie McCarty, Oscar Lee Johnston, Willie Clarence Brown, Roy Lester Johnston, Edna Arvel Johnston, Teddy Golden Johnston, Rubie Dill Brown, Annie Jewell Brown, Prebble Peck,

C. C. & B. #2

Cassie Brown, Goldie Brown, Nema May Scott, Lita Lois Scott, Sylvie Jewel Nichols and Cera Lee Nichols, as citizens by blood, and for the enrollment of William B. Brown, Nancy Brown, Eli W. Brown, Amanda Brown, Sarah Brown, Nancy C. Nichols, Bessie Nichols, Amanda M. Nichols and Osa Nichols, as citizens by intermarriage, of the Choctaw Nation; denying the application for the enrollment of Andrew J. Peck as a citizen by intermarriage of the Choctaw Nation, and dismissing the application for the enrollment of Daphne Myrtle Nichols as a citizen by blood of said nation.

The decision, with the record of proceedings in the case, is this day transmitted to the Secretary of the Interior for review. The final decision of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

Registered.

Commissioner.

Incl. RAM 12/11

Muskogee, Indian Territory, August 13, 1906.

Mansfield, McMurray & Cornish,

Attorneys for Choctaw and Chickasaw Nations,

South McAlester, Indian Territory,

Gentlemen:

Inclosed herewith you will find a copy of the decision of the Commissioner to the Five Civilized Tribes, rendered August 13, 1906, granting the application for the enrollment of Nancy A. Brown, Bettie McCarty, Mary Ethel McCarty, William N. Brown, Sarah Johnston Becky Brown, Mary Johnston, Manie (or Minnie) Hudson, Alice Brown, George Brown, Susie Brown, William Erman Johnston, Minnie Gertrude Brown, Henry Niten Brown, Fannie C. Brown, Caswell M. Brown, Maudie Brown, Willie Brown, Elbert Knightington Brown, Polly A. Peck, Florence Peck, Oscar Peck, Benjamin Peck, Andrew Peck, Otis Dewey Peck, Virgie Peck, George G. Brown, Willie Emma Brown, James B. Nichols, Della May Scott, Nancy V. Nichols, John W. B. Nichols, Louie Herman Nichols, Golda Ula Nichols, Orin M. Nichols, James W. Nichols, Maggie M. Nichols, Mettie Myrtle Nichols, Lonie A. Nichols, William A. McCarty, Ollie McCarty, Oscar Lee Johnston, Willie Clarence Brown, Roy Lester Johnston, Edna Arvel Johnston, Teddy Golden Johnston, Rubie Dill Brown, Annie Jewell Brown, Prebble Peck,

2

Cassie Brown, Goldie Brown, Nema May Scott, Lita Lois Scott, Sylvie Jewel Nichols and Cora Lee Nichols, as citizens by blood, and for the enrollment of William B. Brown, Nancy Brown, Eli W. Brown, Amanda Brown, Sarah Brown, Nancy C. Nichols, Bessie Nichols, Amanda M. Nichols and Osa Nichols, as citizens by intermarriage, of the Choctaw Nation; denying the application for the enrollment of Andrew J. Peck, as a citizen by intermarriage, and dismissing the application for the enrollment of Daphne Myrtle Nichols as a citizen by blood of the Choctaw Nation.

The decision, with the record of proceedings in the case, is this day transmitted to the Secretary of the Interior for review. The final decision of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

Registered.

Commissioner.

Incl. HAH 17/11

Refer in reply to
the following:
Land-
Population
24078-1910
J E D

2-38161

Address only the
Commissioner of Indian
Affairs

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,

Enrollment claim of
William B. Brown, et al.

WASHINGTON.

Mar 20 1910

The Commissioner
to the Five Civilized Tribes,
Muskogee, Oklahoma.

Sir:

On November 26, 1909, W. S. Field, attorney at law,
Washington, D. C., filed a brief in support of a motion for a
rehearing and review in the consolidated Chectaw enrollment case
of William B. Brown, et al.

There is transmitted herewith for your information a
copy of Department letter of March 22, 1910, denying said motion.
There is also inclosed a copy of Office letter of December 4,
1909, in said case.

Very respectfully,

John Francis Jr.
Acting Chief Land Division.

KH-26
8226

G.G.A.

Copy

J.W.H.

DEPARTMENT OF THE INTERIOR.
WASHINGTON.

D-7339.

Office of Indian
Affairs.
Received
Mar 23, 1910
File 24078

Commissioner of Indian Affairs.

Sir:

A petition has been filed for a rehearing and review in the matter of the Choctaw enrollment case of William B. Brown et al., which was the subject of your letter of May 17, 1909, approved June 15, 1909, recommending that the Department take no action looking to the enrollment of any of the applicants included in said case.

It is urged that the applicants were found to be entitled to enrollment by the Secretary of the Interior and that therefore they should be accorded the status of recognized citizens of the Choctaw nation. It appears, however, from the records of the Department that the decision by which they were adjudged to be entitled to enrollment, and upon which they apparently rely, was rendered by the Commissioner to the Five Civilized Tribes; that said decision was not affirmed by the Secretary of the Interior, and that the names of the applicants do not appear upon the final rolls approved by the Secretary.

Premises considered, the petition is hereby denied and you are requested to advise the parties in interest as-

-2-

accordingly. The petition and the letter received with it
are inclosed for the files of your office.

This letter will be regarded as a substitute for
departmental letter of March 8, 1910, relating to said case.

Very respectfully,

(Signed) Frank Pierce
First Assistant Secretary.

Land
Population
95202-1909
J E D

Enrollment case
of William B. Brown,
et al.

Dec. 4, 1909

W. B. Field, Esq.

Attorney at Law,

No. 926 Colorado Building,

Washington, D. C.

Sir:

Referring to your letter of November 26, 1909 and to the brief filed therewith, relative to the consolidated Choctaw enrollment case of William B. Brown, et al., you are advised that the statements contained in your brief do not accord with the facts in the case as shown by the record.

On March 1, 1907 the Department rendered its decision denying the applicants enrollment and disapproved the schedules containing their names. It does not appear that their names were ever on any roll or schedule of citizens of the Choctaw Nation prepared by the Commission or the Commissioner to the Five Civilized Tribes and approved by the Department or that the Department ever instructed the Commission or the Commissioner to place the names of the applicants on the roll for approval; neither does the record show that the Department ever rendered any decision favorable to their enrollment.

L-98208-2

On May 17, 1909 the Department held that the case of William B. Brown, et al., was not analogous to that of John E. Goldsby and did not come within the principles announced by the Supreme Court of the United States in its decision of November 30, 1908 (211 U. S., 249) in that case.

The Department, therefore, declined to take any action looking to the enrollment of the applicant included in the consolidated case of William B. Brown, et al.

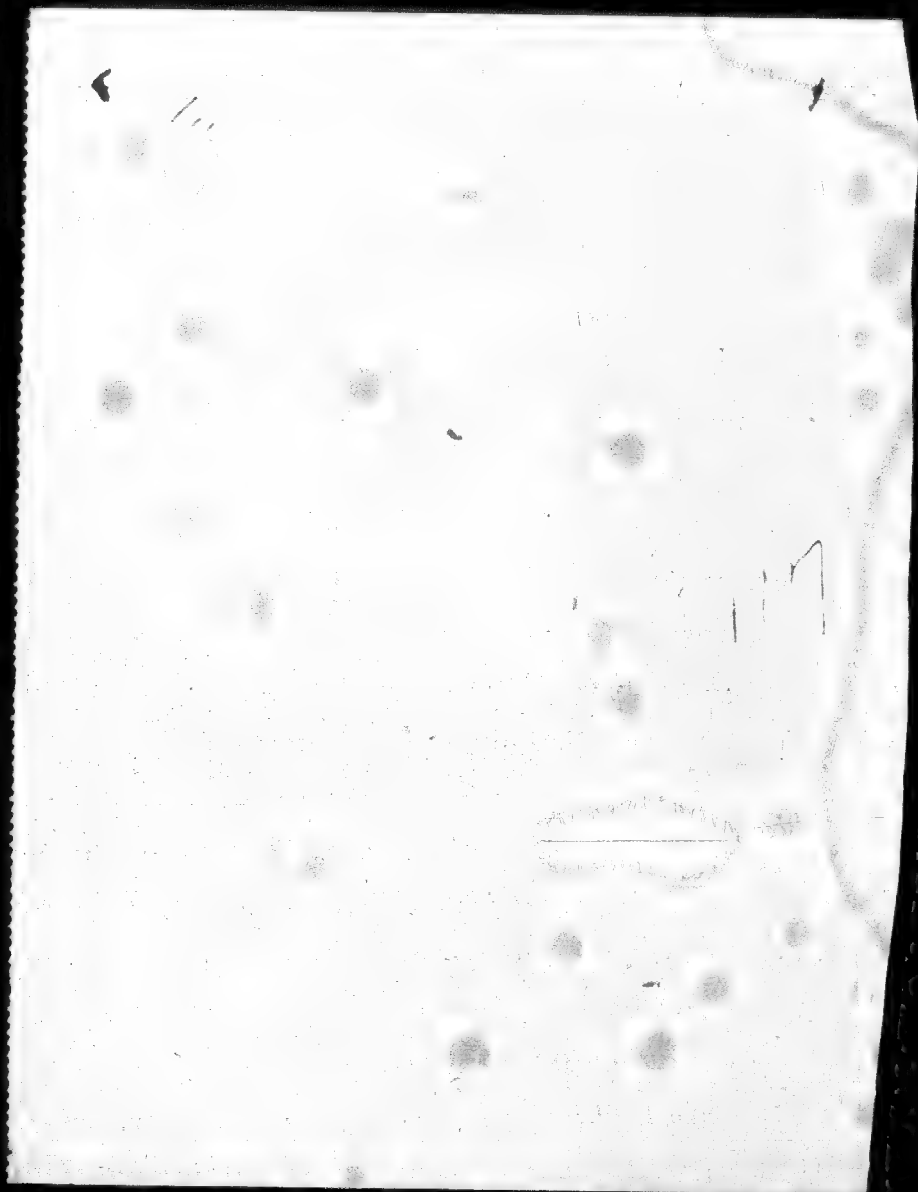
In view of the record in the case and of the Department's action therein, the Office can see no reason for recommending legislation in behalf of the applicants in said case.

Very respectfully,

(Signed) F. H. Abbott,

Assistant Commissioner.

HAS-30
6292



Muskogee, Indian Territory, December 10, 1901.

A. J. Peck,

Tahleah, Indian Territory.

Dear Sir:

Receipt is hereby acknowledged of your letter of the 9th instant, enclosing the application for enrollment as a citizen of the Choctaw Nation of Virgie Peck, the infant daughter of Andrew J. and Pollie A. Peck, born October 11, 1901, and such application being in proper form, has been duly filed with the records of this office and the child listed for enrollment as a citizen of the Choctaw nation.

Yours truly,

Commissioner in Charge.

7-5062

Muskogee, Indian Territory, April 12, 1903.

Andrew J. Peck,

Duncan, Indian Territory.

Dear Sir:

Receipt is hereby acknowledged of the affidavits of Pollie Ann Peck and H. A. Conger to the birth of Prebby Peck, daughter of Andrew J. and Polly Ann Peck, February 19, 1904; also affidavits of Pollie Ann Peck and W. T. Howell to the birth of Virgie Peck, daughter of Andrew J. and Polly Ann Peck, October 11, 1901.

It appears from our records that Polly Ann Peck, mother of these children was on November 29, 1904, denied citizenship in the Choctaw Nation by the Choctaw and Chickasaw Citizenship Court. As the Commission is authorized by the Act of Congress approved March 3, 1905, to receive applications for the enrollment of children born to citizens by blood of the Choctaw and Chickasaw Nations whose enrollment had been approved by the Secretary of the Interior prior to that date you will see that the Commission is without authority to enroll your child.

Respectfully,

Commissioner in Charge.

Muskogee, Indian Territory, April 12, 1903.

Andrew J. Peck,

Duncan, Indian Territory.

Dear Sir:

Receipt is hereby acknowledged of the affidavits of Pollie Ann Peck and H. A. Conger to the birth of Prebby Peck, daughter of Andrew J. and Polly Ann Peck, February 19, 1904; also affidavits of Pollie Ann Peck and W. T. Howell to the birth of Virgie Peck, daughter of Andrew J. and Polly Ann Peck, October 11, 1901.

It appears from our records that Polly Ann Peck, mother of these children was on November 29, 1904, denied citizenship in the Choctaw Nation by the Choctaw and Chickasaw Citizenship Court. As the Commission is authorized by the Act of Congress approved March 3, 1905, to receive applications for the enrollment of children born to citizens by blood of the Choctaw and Chickasaw Nations whose enrollment had been approved by the Secretary of the Interior prior to that date you will see that the Commission is without authority to enroll your child.

Respectfully,

Commissioner in Charge.

Muskogee, Indian Territory, April 12, 1905.

Andrew J. Peck,

Duncan, Indian Territory.

Dear Sir:

Receipt is hereby acknowledged of the affidavits of Pollie Ann Peck and H. A. Conger to the birth of Prebby Peck, daughter of Andrew J. and Polly Ann Peck, February 19, 1904; also affidavits of Pollie Ann Peck and W. T. Howell to the birth of Virgie Peck, daughter of Andrew J. and Polly Ann Peck, October 11, 1901.

It appears from our records that Polly Ann Peck mother of these children was on November 29, 1904, denied citizenship in the Choctaw and Chickasaw Citizenship Court. As the Commission is authorized by the act of Congress approved March 3, 1905, to receive applications for the enrollment of children born to citizens by blood of the Choctaw and Chickasaw Nations whose enrollment had been approved by the Secretary of the Interior prior to that date you will see that the Commission is without authority to enroll your child.

Respectfully,

Commissioner in Charge.

Muskogee, Indian Territory, January 13, 1906.

Cruce, Cruce & Bleakmore,

Attorneys at Law,

Ardmore, Indian Territory.

Gentlemen:

Your letter of December 29, 1905, addressed to the Secretary of the Interior has been by him referred to this office for consideration and appropriate action. Therewith you inclose copy of certificate of A. R. Durant and Solomon J. Homer to the enrollment of Andrew J. Peck, Polly Ann Peck, Minnie Peck, Oscar Sherman Peck, Benjamin Grant Peck, Andrew Peck, George G. Brown and Sarah Brown by the Chief Commissioner's Board at Muskahoma, Indian Territory, January 14, 1897; you state that application was made in due time for the enrollment of all of these persons, but they were refused by the Dawes Commission under an erroneous construction of the law but under the recent ruling of the Department they are clearly entitled to enrollment.

In reply to your letter you are advised that it appears from the records of this office that Polly A. Peck and her children were denied citizenship in the Choctaw Nation by the Choctaw and Chickasaw Citizenship Court on November 28, 1904, in case No. 73 on the Tishomingo docket and if it is alleged that they are now

C. C. & B. #2

entitled to enrollment under recent rulings of the Department,
there is inclosed herewith circular giving full information as to
procedure to be followed in the presentation of cases of this
character.

Respectfully,

Circular.

Commissioner.

SPECIAL.

J.P.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

FHE

D.C. 2920-1907.
I.T.D. 25868-1906.
818-1907.

January 15, 1907.

LRS

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

Referring to departmental letters of January 9 and 14, 1907, in the matter of the application for the enrollment of Mattie Shookley et al., as citizens by blood of the Choctaw Nation, you are advised that by direction of the President the case will be submitted to the Attorney-General for his opinion. You will suspend action relative to these claimants until further advised.

Respectfully,

Thos Ryan

First Assistant Secretary.

D.O.M.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

J.W.H.
W.C.R.
J.W.L.

OWW
File-5-51.

March 1, 1900.

The Commissioner
to the Five Civilized Tribes.

Sir:

January 25, 1900, you were advised that the names of certain persons were inadvertently included in Departmental letter of January 19, 1900 (File 5-51); that such mistake was due to the fact that it was supposed they were enrolled upon schedules approved by the Department, when in fact, the only schedules upon which their names appear were disapproved, and that no action should be taken under the circumstances looking to the erasure of interlineations or notations, if any, from the disapproved schedules, in connection with their names.

The names of the persons referred to in said letter of January 25, 1900, are as follows:

Children by Blood.

Roll No.

16103	Elizabeth Allen.
16112	George A. Engartner.
16119	Louitia Grutchfield.
16106	Burgett Grutchfield.

16111	George W. Crutchfield.
16106	Ida Crutchfield.
16107	Em Crutchfield.
16108	Levinia Crutchfield.
16109	William Crutchfield.
921	Josephine Laflere Long.
922	Jake Laflere Long.
16104	David Ritter.

It now appears from the records of the Secretary's Office that there was a schedule approved May 21, 1904, by the Secretary of the Interior, and that the approval then given was cancelled by said Secretary at a later date, to-wit, June 28, 1904.

The name of Elizabeth Allen appears upon the schedule which was approved May 21, 1904, opposite the number 15681. Ida Crutchfield's name appears opposite No. 15683, while the other members of the Crutchfield family were given the numbers immediately following that assigned to her.

You are requested to cause a report to be prepared showing whether the records of your office also show that an earlier schedule containing the names of said persons was approved May 21, 1904; also whether such approval was cancelled June 28, 1904. Please report also the reason for the attempted cancellation, and whether prior notice was given thereof.

It appears further that, in connection with the names of Elizabeth Allen and the Grutchfield family on the roll approved May 21, 1904, the names of Ardella Hickman, Ida M. Southard and Grover Randall are also to be found.

In connection with said names, it is desired that you will report what action, in your opinion, should be taken concerning the first of said persons; also whether the said Ida M. Southard and Grover Randall, respectively, are identical with the Ida M. Southard whose name appears opposite No. 15880 in the printed rolls of citizens by blood of the Chectaw Nation, and the Grover Randall whose name appears on page 8 of Departmental letter of January 19, 1909 (File 8-51), opposite No. 15928.

As appears from the above list, there were other persons besides the said Allen and Grutchfields whose names were enrolled on schedules which were finally disapproved by the Department: for example, George A. Bנגarner, Josephine Laflere Long and Jake Laflere Long.

Please report whether the names of these persons appear upon any prior approved schedule; also why it was that the Commissioner to the Five Civilized Tribes enrolled them upon the schedule which was disapproved by the Department, showing whether the Commissioner enrolled them thereon, of his own motion, or under decision or instructions from the Department.

By comparison of the roll approved May 21, 1904, with the printed rolls of Chectaws by blood, the Department

finds that the numbers appearing thereon opposite the names of said persons were subsequently assigned to other citizens of the Choctaw Nation; thereby the series of roll numbers was kept perfect, but a material portion of the rolls was evidently sacrificed upon the supposition that it had become worthless. Inquiry arises in this connection as to whether there were other approved schedules which were subsequently disapproved and thrown aside. Accordingly, it is desired that you also cause a report to be prepared covering this feature of the matter, showing all persons embraced in similar cases, with recommendation as to what action should be taken as to them. This will necessitate a statement as to why their names were stricken or cancelled from the rolls, and whether such action was taken without prior notice.

There is still another matter concerning which the Department desires report to be made. It is observed that the words "No person enrolled at this number" are to be found not infrequently opposite consecutive numbers on the pages of the printed rolls; and you are requested to advise the Department whether such words were substituted for the names of individuals appearing on disapproved schedules, and if such is the case, whether such disapproved schedules were approved at any time by the Department; also whether favorable decisions were ever rendered by the Department as to such persons prior to their enrollment upon such disapproved schedules.

For the sake of expedition, a partial report should be rendered at once concerning the said Elizabeth Allen and the various members of the Grutchfield family named above. The other matters referred to herein can be disposed of by subsequent reports.

Very respectfully,

Jesse E. Wilson,

Assistant Secretary.

Through the
Indian Office.

Land
25000-00
27077-00

328

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON, D. C., Feb. 5, 00.

Respectfully referred to the Commissioner
to the Five Civilized Tribes, for
appropriate action.

John Francis, Jr.
Acting Chief Land Division.

2 letter dated Feb. 1, 00.

D 460-1909

Muskogee, Oklahoma, April 30, 1909.

Subject:

Requesting report relative
to petition of Wm. B. Brown
et al. for enrollment as
citizens of the Choctaw
Nation.

The Honorable,

The Secretary of the Interior,

Sir:

Receipt is hereby acknowledged of Indian Office letter of April 9, 1909 (Land 23090-1909) transmitting petition of Wm. B. Brown, et al. for enrollment as citizens of the Choctaw Nation. This office is also requested to report specially whether the names of any of the persons in this petition appeared upon any tribal rolls of the Choctaw Nation or upon any roll prepared by the Commission to the Five Civilized Tribes and approved by the Secretary of the Interior.

March 1, 1909, the Department also addressed a letter to this office requesting reports as to all persons whose names may have been upon disapproved schedules and at whose numbers in the printed rolls appears the notation "No person enrolled at this number."

Secretary 2

The case of William B. Brown is one of the cases referred to in Departmental letter of March 1, 1909 and the report is made to the Secretary of the Interior, through the Indian Office, with the view of complying with both requests.

I have the honor to report as follows, relative to the case of William B. Brown and the other members of his family who were included in the decision in the consolidated Choctaw case of William B. Brown, et al.:

It appears from the records of this office that on September 9, 1896, in the case entitled Nancy Cooper et al. versus the Choctaw Nation, 1896 Choctaw Citizenship Case Number 1418, original application was made to the Commission to the Five Civilized Tribes, under the provisions of the Act of Congress approved June 10, 1896 (29 Stat., 321), for admission to citizenship in the Choctaw Nation of the applicants, Nancy A. Brown (as Nancy Alice Brown), Bettie McCarty (as Rebecca Elizabeth Brown), William B. Brown (as William Hiten Brown), Sarah Johnston (as Sarah Elizabeth Brown), Rocky Brown (as Rebecca Catherine Brown), Mary Brown (as Mary Arrillie Brown), Mamie (or Minnie) Hudson (as Minnie Ann Brown), Alice Brown, George Brown (as George Montgomery Brown), Cassell E. Brown, Mandie Brown (as Mandy E. Brown), Willie Brown (as William G. Brown), Polly A. Peck (as Polly Ann Peck), Florence

Secretary 3

Peck (as Minnie F. Peck), Oscar Peck (as Oscar S. Peck), Benjamin Peck (as Benjamin G. Peck), Andrew Peck, George G. Brown, Willie Emma Brown, James B. Nichols, (as James Bruton Nichols), Della May Scott (as Mary Della May Nichols), Nancy V. Nichols (as Eunice Velma Nichols), John W. B. Nichols (as John William Bethuel Nichols), Orrin M. Nichols (as Orrin Mayberry Nichols), James W. Nichols (as James Willis Nichols), Maggie M. Nichols (as Maggie May Nichols), Mattie Myrtle Nichols, Lonie A. Nichols (as Lona Ata Nichols), as citizens by blood, and for the admission of William B. Brown, Nancy J. Brown (as Nancy Jane Brown), Amanda Brown, Andrew J. Peck (as A. J. Peck), Sarah Brown, Nancy C. Nichols (as Nancy Caveline Nichols), and Amanda M. Nichols (as Amanda Melvina Nichols), as citizens by intermarriage of said nation; and that on December 8, 1896, said Commission rendered its decision denying the applications for citizenship of the above named persons.

From this decision of the Commission an appeal was taken to the United States Court for the Southern District of Indian Territory, which court on December 20, 1897, in the case entitled Nancy J. Cooper, et al. versus the Choctaw Nation, Case Number 96 on the Citizenship Docket, admitted Nancy A. Brown (as Nancy Alice Brown), Bettie McCarty (as Bettie Brown), Sarah Johnston (as Sarah Brown), Becky Brown,

Secretary 4

Mary Brown, Mamie (or Minnie) Hudson (as Mamie Brown), Alice Brown, George Brown, Susie Brown, Caswell M. Brown (as Caswell Marion Brown), Maudie Brown, Willie Brown, Pelly A. Peck (as Pelly Ann Peck), Florence Peck, Oscar Peck, Benjamin Peck (as Benjamin Grant Peck), Andrew Peck, George G. Brown, Willie Emma Brown, James B. Nichols (as James Bruton Nichols), Della May Scott (as Dell May Nichols), Nancy V. Nichols (as Nancy Velmer Nichols), Orin M. Nichols (as Orin Mayberry Nichols), James W. Nichols (as James Willis Nichols), Maggie M. Nichols (as Maggie May Nichols), Nettie Myrtle Nichols (as Myrtle Nichols), and Lonie A. Nichols (as Lonie Alta Nichols) as citizens by blood of the Choctaw Nation, and William B. Brown (as William Bluford Brown), Andrew J. Peck (as Andrew Jackson Peck), and Nancy G. Nichols (as Nancy Caroline Nichols) as citizens by intermarriage of said nation, and denied the applications for the admission of Nancy J. Brown (as Nancy Jane Brown), Sarah Brown and Amanda M. Nichols (as Amanda Melvina Nichols) as citizens by intermarriage of the Choctaw Nation. The name of the applicant, Susie Brown, was interpolated in the judgment of said court, she not having been an applicant before the Commission to the Five Civilized Tribes in 1896.

March 18, 1898, this case again came before the United States Court upon a motion of the plaintiffs' attorneys to

Secretary 5

correct the judgment of said court rendered December 20, 1897, and the court thereupon ordered said judgment corrected so as to admit the applicants, Nancy J. Brown (as Nancy Jane Brown), Sarah Brown, Amanda M. Nichols (as Amanda Melvina Nichols) as citizens by intermarriage of the Choctaw Nation.

September 28, 1898, said court rendered a supplemental judgment admitting Amanda Brown as a citizen by intermarriage of the Choctaw Nation.

January 17, 1900, this cause again came before the court upon a motion of the defendant to strike out of the judgment theretofore rendered certain names improperly admitted to citizenship, and the court ordered that the names of Susie Brown, Andrew J. Peck (as Andrew Jackson Peck), Bettie McCarty (as Bettie Brown), and Becky Brown be stricken from said former judgment.

Subsequently, upon the representation of the plaintiffs' attorneys that certain persons who were original applicants were by oversight or mistake left out of the original judgment theretofore rendered, the court ordered that the applicants, Nancy J. Brown (as Nancy Jane Brown), Sarah Brown, Amanda Brown, Amanda M. Nichols and Rebecca E. Brown be admitted to citizenship in the Choctaw Nation.

December 17, 1902, the Choctaw and Chickasaw Citizenship

Secretary 6

Court, created under the provisions of the Act of Congress approved July 1, 1902 (32 Stat., 641), "set aside, annulled, vacated and held for naught" the aforesaid judgment of the United States Court for the Southern District of the Indian Territory.

The record in this case was subsequently certified to the Choctaw and Chickasaw Citizenship Court for a trial de novo, which court, November 29, 1904, in the case entitled William Weighton Brown, et al. versus the Choctaw and Chickasaw Nations, Number 73 on the Tishomingo Docket, ordered, adjudged and decreed that the petition of the plaintiffs be denied and that they be declared not citizens of the Choctaw Nation, and not entitled to enrollment as such citizens, and not entitled to any rights whatever flowing therefrom.

December 12, 1904, orders were entered of record by the Commission to the Five Civilized Tribes dismissing the applications for the enrollment of Mary E. McCarty, William Erman Johnston, Minnie Gertrude Brown, Henry Witen Brown, Elbert Knightington Brown, Otis Dwey Peck, Virgie Peck, Louie Herman Nichols and Gelda Ula Nichols as citizens by blood of the Choctaw Nation and March 18, 1905, and order was entered of record dismissing the application for the enrollment of Fannie C. Brown as a citizen by blood of said nation

Secretary 7

for the reason that the parents of these children had been denied by a decree of the Choctaw and Chickasaw Citizenship Court.

December 12, 1904, orders were entered of record by the Commission dismissing the applications for the enrollment of Eli W. Brown, Bessie Nichols and Osa Nichols as citizens by intermarriage of the Choctaw Nation for the reason that the persons through whom they claimed their rights had been denied by a decree of the Choctaw and Chickasaw Citizenship Court.

March 30, 1905, the Commission to the Five Civilized Tribes denied the application for the enrollment of Bessie Brown as a citizen by blood of the Choctaw Nation, and on April 6, 1906 (I T D 3510-1906) the Department set aside this decision of the Commission and returned the record to this office for investigation upon its merits.

Under the regulations adopted by the Commissioner to the Five Civilized Tribes of January 2, 1906, there were filed on February 6, 1906, by Cruse, Cruse & Blackmore, attorneys for the petitioners, Ardmore, Indian Territory, petitions praying that William B. Brown, Nancy A. Brown, Minnie Hudson, Sarah Johnston, Oscar Lee Johnston, William Ernan Johnston, Rebecca Brown, Minnie Gertrude Brown, Henry

Secretary 8

Niten Brown, Ebie Hill Brown, Eli W. Brown, Mary A. Johnston, Roy Lester Johnston, Rena A. Johnston, Rebecca McCarty, William A. McCarty, Mary E. McCarty, William H. Brown, Nancy Jane Brown, George Brown, Alice Brown, Susie Brown, Cletus Brown, Clarence Brown, A. J. Peck, Pelly Ann Peck, Minnie Peck, Oscar Sherman Peck, Benjamin Grant Peck, Andrew Peck, O. D. Peck, Virgie Peck, Prebble Peck, C. M. Brown, Amanda Brown, Mandy Brown, William Brown, Elbert K. Brown, Annie Jewel Brown, George G. Brown, Sarah Brown, Willie Emma Brown, Cassie Brown, Goldie Brown, J. B. Nichols, Nancy Nichols, Delma Nichols, John W. B. Nichols, Bessie Eaton Nichols, Louie Herman Nichols, GoldaMula Nichols, Silva Jewel Nichols, Della May Scott, NemaScott, Orin M. Nichols, Amanda Nichols, Myrtle Nichols, Lenie Nichols, James W. Nichols, Osa Nichols, Cora Lee Nichols and Maggie Angel be enrolled as citizens of the Choctaw Nation.

April 16, 1906, the principal petitioners, their attorneys of record and the attorneys for the Choctaw and Chickasaw Nations, were advised that a hearing would be had in this matter at the office of the Commissioner to the Five Civilized Tribes, Muskogee, Indian Territory, Monday, May 14, 1906, at nine o'clock A. M. and on the same date, William H. Brown, father of Susie Brown, Grace, Grace & Blackmore, and Hans-

Secretary 9

Field, McMurray & Cernish, were advised that on April 6, 1906, the Department had set aside the decision of the Commission to the Five Civilized Tribes of March 30, 1905, and returned the record with instructions that a full investigation be made of the rights of the said Susie Brown to enrollment as a citizen by blood of the Choctaw Nation, and that such testimony and evidence would be received at the date of the hearing on the petition.

On motion of attorneys for applicants the hearing was continued until May 21, 1906, on which date proceedings were had in the matter of said petition in pursuance to the notices above mentioned.

At the hearing William M. Brown, Cassell M. Brown, James B. Nichols and Orin M. Nichols testified that in 1894, they, together with the other applicants herein who were living at that time, petitioned the Choctaw Council for admission as citizens of the Choctaw Nation; that no action having been taken by the Council as to their case they, in 1896, appeared before the Choctaw Census Commission and made application to be enrolled upon the 1896 Choctaw Census Roll; that some time in January, 1897, they received a certificate from the Secretary of the Choctaw Revisionary Board, wherein it appeared that they had been enrolled upon the 1896 Choctaw Census Roll.

Secretary 10

It appears that the applicants, William B. Brown, William M. Brown, Nancy J. Brown, Cassell M. Brown, Amanda Brown, Peggy Ann Peck, Andrew J. Peck, George G. Brown, Sarah Brown, Nancy A. Brown, Bettie McCarty, Sarah Johnston, Becky Brown, Mary Johnston, Mamie (or Minnie) Hudson, Alice Brown, George Brown, Susie Brown, Maudie Brown, Willie Brown, Florence Peck, Oscar Peck, Benjamin Peck, Andrew Peck, James B. Nichols, Nancy C. Nichols, Orin M. Nichols, Amanda M. Nichols, John W. B. Nichols, Della May Scott, Nancy V. Nichols, James W. Nichols, Maggie M. Nichols, Nettie Myrtle Nichols and Lenie A. Nichols are identified upon the 1896 Census Roll of the Choctaw Nation, Blue County.

August 13, 1906, the Commissioner to the Five Civilized Tribes rendered a decision, in accordance with the opinion of the Assistant Attorney General for the Department of the Interior of February 10, 1905 (I T D 10353-1904) and December 8, 1905 (I T D 3693-1905) in the case of Lula West, holding that the action of the Commission to the Five Civilized Tribes and the subsequent action of the United States Court for the Southern District of Indian Territory and the Choctaw and Chickasaw Citizenship Court upon the right of the applicants who applied to said Commission in 1896, with the exception of Andrew J. Peck, was without authority of law,

Secretary 11

and of no force and effect upon the status of said applicants as citizens of the Choctaw Nation.

He also rescinded the orders of the Commission to the Five Civilized Tribes of December 12, 1904, and March 18, 1905, dismissing the applications for the enrollment of Mary E. McCarty, William Herman Johnston, Minnie Gertrude Brown, Fannie C. Brown, Henry Hiten Brown, Elbert Knightington Brown, Otis Dewey Peck, Virgie Peck, Louis Herman Nichols and Golda Ula Nichols as citizens by blood of the Choctaw Nation and Eli W. Brown, Bessie Nichols and Osa Nichols as citizens by intermarriage of the Choctaw Nation.

The Commissioner to the Five Civilized Tribes further held, in accordance with the opinions of the Assistant Attorney General for the Department of the Interior of March 3, 1905 (I T D 187-1905) and March 10, 1906 (I T D 9969-1906) that Nancy A. Brown, Bettie McCarty, Mary Ethel McCarty, William E. Brown, Sarah Johnston, Becky Brown, Mary Johnston, Emma (or Minnie) Hudson, Alice Brown, George Brown, Esie Brown, William Herman Johnston, Minnie Gertrude Brown, Henry Hiten Brown, Fannie C. Brown, Cassell M. Brown, Emma Brown, Willie Brown, Elbert Knightington Brown, Polly A. Peck, Florence Peck, Oscar Peck, Benjamin Peck, Andrew Peck, Otis Dewey

Secretary 12

Peck, Virgie Peck, George G. Brown, Willie Emma Brown, James B. Nichols, Della May Scott, Nancy V. Nichols, John W. B. Nichols, Louis Herman Nichols, Golda Ula Nichols, Orin M. Nichols, James W. Nichols, Maggie M. Nichols, Nettie Myrtle Nichols, and Lonl A. Nichols should be enrolled as citizens by blood and William B. Brown, Nancy Brown, Eli W. Brown, Amanda Brown, Sarah Brown, Nancy C. Nichols, Bessie Nichols, Amanda M. Nichols and Osa Nichols as citizens by intermarriage of the Choctaw Nation under the provisions of the Acts of Congress approved June 28, 1898 (30 Stat., 495) and July 1, 1902 (32 Stat., 641).

The applications for the enrollment of William A. McCarty, Gillie McCarty, Oscar Lee Johnston, Willie Clarence Brown, Roy Lester Johnston, Edna Arveh Johnston, Teddy Golden Johnston, Ebbe Bill Brown, Annie Jewell Brown, Prebble Peck Cassie Brown, Goldie Brown, Hema May Scott, Lita Leis Scott, Sylvie Jewel Nichols and Oera Lee Nichols were also granted under the provisions of the Act of Congress approved April 28, 1906 (34 Stat., 137).

The application for the enrollment of Andrew J. Peck as a citizen by intermarriage was denied and the application for the enrollment of Daphne Myrtle Nichols as a citizen by blood of the Choctaw Nation was dismissed.

Secretary 13

August 14, 1906, the record in this case, together with the decision of August 13, 1906, was transmitted to the Department.

February 7, 1907, there were transmitted to the Secretary of the Interior schedules of citizens by blood and marriage of the Choctaw Nation containing the names of the persons who were favorably passed upon by the Commissioner to the Five Civilized Tribes August 13, 1906, in the Choctaw enrollment case of William E. Brown, et al., as follows:

Citizens by blood . . . Nos. 1611 to 16159, inclusive.
Citizens by marriage // Nos. 1638 to 1645, inclusive.
Minor citizens by blood Nos. 857 to 872, inclusive.

This case was analogous to the case of Mattie Shockley, et al. (Leola West case) in which this office had been directed to suspend action until the Attorney General had passed upon the questions involved in that case, but inasmuch as the time within which persons could be enrolled and their enrollment approved by the Secretary of the Interior under the provisions of the Act of Congress approved April 28, 1906, was becoming very short, the schedules above described were prepared by this office without waiting for the opinion of the Attorney General and were forwarded to the Department in order that, if the opinion of the Attorney General were favorable, the rights of these applicants might be protected without

Secretary 24

delay, and this office requested, in the event of such favorable opinion of the Attorney General, that these schedules be approved by the Secretary of the Interior.

February 26, 1907, referring to Departmental letter of February 23, 1907 (I T D 4564-1907) requesting this office to forward a list of those persons whose enrollment should be cancelled in view of the opinion of the Attorney General of February 19, 1907, in the Choctaw enrollment cases of Loula West and William C. Thompson, the Commissioner to the Five Civilized Tribes called the attention of the Department to the schedules above described which were forwarded February 7, 1907, and advised that this case was analogous to the case of Loula West. It was, therefore, recommended that the decision of August 13, 1906, be not approved by the Department and that the schedules transmitted with office letter of February 7, 1907, be disapproved by the Secretary of the Interior.

February 28, 1907 (Land 71868-1906, 2220, 14412-1907)
the Indian Office forwarded to the Department the record in the case of William B. Brown, et al. together with the schedules transmitted February 7, 1907, and recommended, in view of the opinion of the Attorney General of February 19, 1907, that the decision of the Commissioner of August 13, 1906, in

Secretary 15

so far as it was favorable to the applicants, be reversed and the schedules disapproved, which was done by the Department March 1, 1907 (I T D 8742-1907).

This office has no record of any favorable decision of the Department as to the persons included in this consolidated case.

No formal allotments were made to the persons included in this case but applications were made on their behalf for certain lands which were involved in Chickasaw contest cases. Subsequent to March 4, 1907, these contests were dismissed and on August 31, 1907, a motion to reinstate said contests was denied.

August 29, 1907, the Department advised this office that by letter of August 5, 1907, counsel for the claimants in the case of William B. Brown, et al. requested that the order of the Department of June 14, 1907, in the case of William C. Thompson and others, suspending action on claims to allotments of lands be made applicable to them.

September 20, 1907, this office reported that it did not appear that the claimants in the case of William B. Brown, et al. possessed the same status as the claimants in the case of William C. Thompson, et al. as their names had never been upon an approved roll, but that it appeared they occupied

Secretary 16

the same status as the persons included in the case of John N. Gamblin and the case of Angus A. Spring.

October 12, 1907 (I T N 77893-1907) the Indian Office held that the action of the Commissioner to the Five Civilized Tribes in dismissing the contests on behalf of these claimants, and in refusing to reinstate the same, was proper and recommended that he be advised that all applications for allotments on behalf of these persons should be denied and this recommendation was approved by the Department October 14, 1907.

Following these instructions of the Department the lands in contest were awarded to the contestees, and patents therefor were recorded and delivered to them. It is believed, therefore, that these persons, in the event of a favorable decision relative to their enrollment, could not recover the land referred to, and if they are holding or claiming other land this office has no record of such claim.

If they are now in possession of other lands in the Choctaw and Chickasaw Nations, this office will, however, upon the receipt of descriptions thereof, make a record of their claim to the land, pending further action by the Department.

I have further to report that the record in this case is full and complete and it is believed the applicants could

Secretary 17

add nothing material thereto at this time, and that it would work an unjustifiable hardship upon them to notify them now to appear and give further testimony in this case and force upon them the expense of a hearing at this office.

I have not, therefore, forwarded the notices referred to in Departmental letter of March 15, 1909 and Indian Office letter of April 9, 1909, but will await specific instruction from the Department as to its wishes in the matter in accordance with my request of April 14, 1909, in the Mattie Brockley case.

If it is the desire of the Department that notices be forwarded in this case, however, this office will proceed to notify the applicants thereof immediately upon receipt of advice from the Department and will make supplemental report after their replies have been received.

The petition inclosed with Indian Office letter of April 9, 1909, is herewith returned.

Respectfully,

Through the Commissioner
of Indian Affairs.

Commissioner.

1-12903

Land
31790-1909
J.E.D

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS
Washington.

Jun 25, 1909

Enrollment case of
Wm. B. Brown et al.

The Commissioner

to the Five Civilized Tribes,
Muskogee, Oklahoma.

Sir:

Referring to our report of April 20, 1909, relative to the consolidated Choctaw enrollment case of William B. Brown et al., you are advised, that on June 15, 1909, the Department held that the case mentioned was not analogous to that of John M. Goldsby, and did not come within the principles announced by the Supreme Court of the United States in that case, (211 U. S. 249). The Department, therefore declined to take any action looking to the enrollment of any of the applicants in the consolidated case of William B. Brown et al.

A copy of approved Office letter of May 17, 1909, is inclosed for your further information.

You are requested to notify the parties in interest.

Very respectfully,

J. M. Dorton,
Acting Chief Clerk,

MEM-19
2532.

D-7339

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS.
Washington.

G.R.
J.W.
J.V. Jr.
W.R.L.

Land
51790-1909
J E D

Enrollment case of
Wm. B. Brown et al.

May 17, 1909

The Honorable,

The Secretary of the Interior.

Sir:

Referring to Department letter of March 1, 1909, there is transmitted herewith a report dated April 20, 1909, from the Commissioner to the Five Civilized Tribes, relative to the enrollment case of William B. Brown et al. The history of the claim is set out fully in the reports enclosed.

The record shows, among other things, that on August 13, 1906, the Commissioner to the Five Civilized Tribes rendered a decision that Nancy A. Brown, Bettie McCarty, Mary Ethel McCarty, William M. Brown, Sarah Johnston, Becky Brown, Mary Johnston, Mamie (or Minnie) Hudson, Alice Brown, George Brown, Essie Brown, William Erasm Johnston, Minnie Gertrude Brown, Henry Niten Brown, Fannie C. Brown, Caswell M. Brown, M. Maudie Brown, Willie Brown, Elbert Knightington Brown, Polly A. Peck, Florence Peck, Oscar Peck, Benjamin Peck, Andrew Peck, Otis Dewey Peck, Virgie Peck, George G. Brown, Willie Emma Brown, James B. Nichols, Della May Scott, Nancy V. Nichols, John W.

B. Nichols, Louis Herman Nichols, Golda Ula Nichols, Orlin M. Nichols, James W. Nichols, Maggie M. Nichols, Nettie Myrtle Nichols and Louis A. Nichols should be enrolled as citizens by blood and William B. Brown, Nancy Brown, Eli W. Brown, Amanda Brown, Sarah Brown, Nancy G. Nichols, Bessie Nichols, Amanda M. Nichols and Osa Nichols as citizens by intermarriage of the Choctaw Nation under the provisions of the Acts of Congress approved June 28, 1898 (30 Stat. L. 495) and July 1, 1902 (32 Stat., L. 641).

The applications for the enrollment of William A. McCarty, Ollie McCarty, Oscar Lee Johnston, Willie Clarence Brown, Roy Lester Johnston, Edna Arvel Johnston, Teddy Golden Johnston, Rubie Bill Brown, Annie Jewell Brown, Freddie Peak, Cassie Brown, Goldie Brown, Nana May Scott, Lita Lois Scott, Sylvie Jewel Nichols and Cera Lee Nichols were also granted under the provisions of the Act of Congress approved April 26, 1906 (34 Stat. L. 137).

The application for the enrollment of Andrew J. Peak as a citizen by intermarriage was denied and the application for the enrollment of Daphne Myrtle Nichols as a citizen by blood of the Choctaw Nation was dismissed.

It appears that on August 24, 1906, the record in the case, together with the decision, was forwarded by the Com-

missioner to the Five Civilized Tribes, and that on February 7, 1907, he transmitted to the Department schedules of citizens of the Choctaw Nation by blood and by marriage, containing the names of persons who were favorably passed upon by him in his decision of August 13, 1906, in this case. It appears also that on February 26, 1907, the Commissioner, referring to Department letter of February 23, 1907, invited the Department's attention to the above-mentioned schedules, and to the Choctaw enrollment case of William B. Brown, et al., and recommended, in view of the opinion of the Attorney General dated February 19, 1907, in the Loula West and other cases, that his decision of August 13, 1906, be not approved, and that the schedules referred to be disapproved.

On March 1, 1907, the Department reversed the decision of the Commissioner so far as it was favorable to the applicants, and disapproved the schedules containing their names.

The Commissioner to the Five Civilized Tribes reports further that his office has no record of any favorable decision of the Department as to the persons included in this case.

It appears also that their names have never been placed upon any roll or schedule of citizens of the Choctaw Nation prepared by the Commissioner to the Five Civilized Tribes and approved by the Department.

L-21790-4

The Office concurs in the view of the Commissioner to the Five Civilized Tribes that as the record in the case is a complete one, the applicants could add nothing material thereto at this time, and to have them appear at his office to give further testimony would only make additional expense for them and work a hardship without any benefits accruing therefrom.

On April 9, 1907, the Office requested the Commissioner to the Five Civilized Tribes to take no steps pending the preparation of his report concerning the enrollment case of William E. Brown, et al toward the issuance of a patent to any adverse party in interest to the lands occupied by the applicants in the above mentioned case. The Commissioner was also requested to instruct the United States Indian Agent, at Union Agency, to suspend action, if any was contemplated, toward dispossessing the applicants of the lands occupied by them until further advised by the Department.

The Commissioner reports that no formal allotments were made to the persons included in the above case, but that applications were made in their behalf for certain lands which were involved in Chickasaw contest cases. The contests in behalf of these claimants were dismissed by the Commissioner to the Five Civilized Tribes, and on October 12, 1907, the Office held that the action of the Commissioner was proper, and recommended that he be advised that all applications for

L-31790-8

allotments in behalf of these persons should be denied.

This recommendation was approved by the Department on October 14, 1907. It appears from the report of the Commissioner to the Five Civilized Tribes that the lands in contest were awarded to the contestees and patents therefor were recorded and delivered to them. Title having passed to the contestees, the Department is now without authority to place or permit the applicants in the William B. Brown case to remain in possession of the lands covered by the patents issued to the contestees, even in the event of the Department rendering a favorable decision relative to their enrollment.

The Commissioner reports that his office has no record of the applicants in the case mentioned holding or claiming possession of any other lands in the Choctaw or Chickasaw Nations, but says that if they are in occupancy of such other lands his office will, upon receipt of a description thereof, make a record of the claims pending further action by the Department.

The Office is of the opinion that the case of William B. Brown, et al., is not analogous to that of John E. Seligby, and that it does not come within the principles announced by the Supreme Court of the United States in its decision of November 30, 1906, in that case (211 U. S. 249.)

L-21790-6

It is therefore recommended that the Department take no action looking to the enrollment of any of the applicants included in the consolidated case of William H. Brown, et al.

The record in the case, and other papers pertaining thereto, are transmitted herewith for your further information.

Very respectfully,

R. G. Valentine,

Acting Commissioner.

HEE 11

691

WGP June 18, 1909 JWH

Approved

Frank Pierce,

First Assistant Secretary. FVC

Mankego, Oklahoma, June 29, 1909.

Mr. Andrew J. Peck,

Duncan, Oklahoma.

Sir:

You are hereby notified that on June 15, 1909, the Secretary of the Interior held that the Unsettled enrollment case of William B. Brown et al., with which your case was consolidated, was not analogous to that of John E. Goldsby (211 U. S. 249) and declined to take any action looking to the enrollment of the applicants therein under the opinion of the Supreme Court of the United States of November 30, 1908, in said Goldsby case.

Respectfully,

VHA-EB

Commissioner.

Choctaw 6024
George G. Brown

Trans. from Choc card 5093 See Petition C-34
duplicate record bond

8-13-06 granted

3-1-07 decision of Commissioners reversed
and schedules containing names of applicants
disapproved

3-1-09 Dept requests report

#-20-09 Report To Dept

6-15-09 Dept holds cases not analogous
to Goldsby case & declines to take
action looking to enrollment of applicant

6-20-09 Parties notified

6024

O.L.J.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of William B. Brown, et al., as citizens of the Choctaw Nation, consolidating the applications of

William B. Brown, et al.	7-3094,
William N. Brown, et al.	7-3040,
Eli W. Brown, et al.	7-D-432,
Caswell M. Brown, et al.	7-3044
Andrew J. Peck, et al.	7-3062
George G. Brown, et al.	7-3095
James B. Nichols, et al.	7-5100,
John W. B. Nichols, et al.	7-3097
Orin M. Nichols, et al.	7-3061,
Osa Nichols, et al.	7-D-509.

DECISION.

It appears from the census card records in this case that on September 22, 1898, application was made to the Commission to the Five Civilized Tribes for the enrollment of William B. Brown (sixty-one years of age), as a citizen by intermarriage of the Choctaw Nation, and for the enrollment of his two children, Nancy A. Brown (twenty-three years of age) and Bettie Brown, nee McCarty (nineteen years of age), as citizens by blood of the said nation; on September 22, 1898, for the enrollment of William N. Brown (thirty-nine years of age), and his seven minor children, Sarah Brown, nee Johnston (eighteen years of age), Becky Brown (sixteen years of age), Mary Brown, nee Johnston (thirteen years of age), Mamie (or Minnie)

Brown, now Hudson (eleven years of age), Alice Brown (eight years of age), George Brown (five years of age) and Essie Brown (one year of age), as citizens by blood of the Choctaw Nation, and for the enrollment of Nancy Brown (thirty-six years of age) as a citizen by intermarriage of said nation; on September 8, 1898, for the enrollment of Eli W. Brown (twenty-eight years of age) as a citizen by intermarriage of the Choctaw Nation, on September 22, 1898, for the enrollment of Caswell M. Brown (thirty-four years of age), and his two minor children, Maudie (ten years of age) and Willie Brown (six years of age), as citizens by blood of the Choctaw Nation, and on October 18, 1898, for the enrollment of his wife, Amanda Brown (thirty-one years of age), as a citizen by intermarriage of said nation; on September 22, 1898, for the enrollment of Andrew J. Peck (thirty-two years of age) as a citizen by intermarriage of the Choctaw Nation, and for the enrollment of his wife, Polly A. Peck (thirty years of age), and his five minor children, Florence (nine years of age), Oscar (seven years of age), Benjamin G. (five years of age), Andrew (three years of age), and Otis Dewey Peck (two months of age), as citizens by blood of said nation; on September 22, 1898, for the enrollment of George G. Brown (twenty-six years of age), and his minor daughter, Willie Emma Brown (three years of age), as citizens by blood of the Choctaw Nation, and for the enrollment of his wife, Sarah Brown (twenty-one years of age), as a citizen by intermarriage of said nation; on September 22, 1898, for the enrollment of James E. Nichols (forty-eight years of age), and his two minor children, Della May Nichols, now Scott (fourteen years of age), and Nancy V. Nichols (seven years of age), as citizens by blood of the Choctaw Nation, and for the enrollment of his wife, Nancy C. Nichols, (forty-two years of age), as a

citizens by intermarriage of said nation; on September 22, 1898 for the enrollment of John W. B. Nichols (twenty-four years of age) as a citizen by blood of the Cheetaw Nation, and for the enrollment of his wife, Bessie Nichols (eighteen years of age), as a citizen by intermarriage of said nation; on September 22, 1898, for the enrollment of Orin M. Nichols (forty-four years of age), and his four minor children, James W. (eighteen years of age), Maggie M. (twelve years of age), Nettie Myrtle (eight years of age), and Louis A. Nichols (four years of age), as citizens by blood of the Cheetaw Nation, and for the enrollment of his wife, Amanda M. Nichols (thirty-eight years of age), as a citizen by intermarriage of said nation; and on September 25, 1899, for the enrollment of Osa Nichols (seventeen years of age) as a citizen by intermarriage of the Cheetaw Nation.

Applications were subsequently made for the enrollment of the following minor applicants as citizens by blood of the Cheetaw Nation: On January 20, 1902, for the enrollment of Mary Ethel McCarty (born December 8, 1901); on May 31, 1906, for the enrollment of William A. McCarty (born April 21, 1904) and Ollie McCarty (born February 14, 1906); on October 13, 1900, for the enrollment of William Erasm Johnston (born June 30, 1900); on October 19, 1900, for the enrollment of Minnie Gertrude Brown (born August 13, 1900); on May 16, 1901, for the enrollment of Fannie C. Brown (born February 11, 1901); on April 29, 1905, for the enrollment of Oscar Lee Johnston (born November 14, 1902); on April 29, 1906, for the enrollment of Willie Clarence Brown (born April 8, 1903); on July 12, 1902, for the enrollment

Henry Hiten Brown, (born May 21, 1902); on April 29, 1905, for the enrollment of Roy Lester Johnston (born October 28, 1903); on May 21, 1906, for the enrollment of Mina Arvel Johnston (born March 21, 1905); on April 14, 1905, for the enrollment of Rubie Hill Brown (born February 12, 1904); in 1899, for the enrollment of Elbert Knightington Brown (born October 8, 1899); on April 7, 1905, for the enrollment of Annie Jewell Brown (born December 2, 1902); on December 10, 1901, for the enrollment of Virgie Peek (born October 11, 1901); on April 8, 1905, for the enrollment of Prebble Peek (born February 19, 1904); on May 21, 1906, for the enrollment of Cassie Brown (born May 30, 1900) and Goldie Brown (born September 5, 1904); on April 17, 1905, for the enrollment of Hema May Scott (born May 15, 1903) and Lita Lois Scott (born February 1, 1906); on September 1, 1900, for the enrollment of Louie Herman Nichols (born August 19, 1900); on December 27, 1901, for the enrollment of Golda Ula Nichols (born September 15, 1901); on April 1, 1905, for the enrollment of Sylvie Jewel Nichols (born August 26, 1903); on April 14, 1905, for the enrollment of Cora Lee Nichols (born November 6, 1902); on April 6, 1901, for the enrollment of Daphne Myrtle Nichols (born February 20, 1901); and on May 21, 1906, for the enrollment of Teddy Golden Johnston (born June 16, 1906).

It appears from the records of the Commission to the Five Civilized Tribes that on September 9, 1896, in the case entitled "Nancy Cooper, et al. vs. Choctaw Nation" (1896 Choctaw Citizenship Docket, Case No. 1418), original application was made to said Commission, under the provisions of the Act of Congress approved June 10, 1896 (29 Stats., 321), for admission to

citizenship in the Cheateau Nation of the applicants, Fanny A. Brown (as Fanny Alice Brown), Bettie McCarty (as Rebecca Elizabeth Brown), William H. Brown (as William Hiten Brown), Sarah Johnston (as Sarah Elizabeth Brown), Becky Brown (as Rebecca Catherine Brown), Mary Brown (as Mary Arville Brown), Mamie (or Minnie) Watson (as Minnie Ann Brown), Alice Brown, George Brown (as George Montgomery Brown), Cassell E. Brown, Maudie Brown (as Nanty E. Brown), Willie Brown (as William G. Brown), Felly A. Peck (as Felly Ann Peck), Florence Peck (as Minnie P. Peck), Oscar Peck (as Oscar S. Peck), Benjamin Peck (as Benjamin S. Peck), Andrew Peck, George G. Brown, Villia Emma Brown, James E. Nichols (as James Bruton Nichols), Della May Scott (as Mary Della May Nichols), Nancy V. (Nannie Vilma Nichols), John W. E. Nichols (as John William Bethuel Nichols), Orin H. Nichols (as Orrin Maybery Nichols), James V. Nichols (as James Willis Nichols), Maggie H. Nichols (as Maggie May Nichols), Nettie Myrtle Nichols, Lemie A. Nichols (as Lena Alta Nichols), as citizens by blood of said nation, and for the admission of William E. Brown, Nancy J. Brown (as Nancy Jane Brown), Amanda Brown, Andrew J. Peck (as A. J. Peck), Sarah Brown, Nancy C. Nichols (as Nancy Caroline Nichols), and Amanda H. Nichols (as Amanda Melvina Nichols), as citizens by intermarriage of said nation; and that on December 8, 1896, said Commission rendered its decision therein, denying the application of the above named applicants for enrollment as citizens of the Cheateau Nation.

From the decision of said Commission an appeal was taken to the United States Court for the Northern District of Indian Territory, which court on December 27, 1897, in the case

entitled "Nancy J. Cooper, et al. vs. Choctaw Nation" (Southern District Citizenship Case No. 96), admitted Nancy A. Brown (as Nancy Alice Brown), Bettie McCarty (as Bettie Brown), Sarah Johnson (as Sarah Brown), Becky Brown, Mary Brown, Mamie (or Minnie) Hudson (as Mamie Brown), Alice Brown, George Brown, Essie Brown, Caswell M. Brown (as Caswell Marion Brown), Maudie Brown, Willie Brown, Polly A. Peck (as Polly Ann Peck), Florence Peck, Oscar Peck, Benjamin Peck (as Benjamin Grant Peck), Andrew Peck, George G. Brown, Willie Emma Brown, James N. Nichols (as James Bruton Nichols), Della May Scott (as Dell May Nichols), Nancy V. Nichols (as Nancy Velmer Nichols), Orin M. Nichols (as Orin Mayberry Nichols), James W. Nichols (as James Willis Nichols), Maggie N. Nichols (as Maggie May Nichols), Nettie Myrtle Nichols (as Myrtle Nichols), and Lonie A. Nichols (as Lonie Alta Nichols), as citizens by blood of the Choctaw Nation, and William B. Brown (as William Bluford Brown), Andrew J. Peck (as Andrew Jackson Peck), and Nancy C. Nichols (as Nancy Caroline Nichols), as citizens by intermarriage of said nation, and denied the applications for the admission of Nancy J. Brown (as Nancy Jane Brown), Sarah Brown, and Amanda M. Nichols (as Amanda Melvina Nichols), as citizens by intermarriage of the Choctaw Nation. The name of the applicant, Essie Brown, was interpolated in the judgment of said court, she not having been an applicant before the Commission to the Five Civilized Tribes in 1896.

On March 18, 1898, said case again came before said court upon a motion of the plaintiff's attorneys to correct the judgment of said court rendered December 20, 1897, and the court, thereupon, ordered said judgment corrected so as to admit the

applicants, Nancy J. Brown (as Nancy Jane Brown), Sarah Brown, Amanda M. Nichols (as Amanda Melvina Nichols), as citizens by intermarriage of the Choctaw Nation.

On September 28, 1898, said court rendered a supplemental judgment admitting Amanda Brown as a citizen by intermarriage of the Choctaw Nation.

On January 17, 1900, this cause again came before said court upon a motion of the defendant to strike out of the judgment theretofore rendered, certain names improperly admitted to citizenship, and said court being fully advised, ordered that the following names, Susie Brown, Andrew J. Peck as (Andrew Jackson Peck), Bettie McCarty (as Bettie Brown), and Becky Brown, be stricken from said former judgment.

Subsequently, upon the representation of the plaintiffs' attorneys that certain persons who were original applicants were by oversight or mistake left out of the original judgment theretofore rendered, the court ordered that the applicants, Nancy J. Brown (as Nancy Jane Brown), Sarah Brown, Amanda Brown, Amanda M. Nichols and Rebecca E. Brown be admitted to citizenship in the Choctaw Nation.

It further appears from the records of said Commission that on December 17, 1903, the Choctaw and Chickasaw Citizenship Court, created under the provisions of the Act of Congress approved July 1, 1902 (32 Stats., 641), "set aside, annulled, vacated and held for naught" the aforesaid judgment of the United States Court for the Southern District of Indian Territory.

Thereafter, the record in the above case was certified to the Choctaw and Chickasaw Citizenship Court, for a trial de novo, which court, on November 29, 1904, in the case entitled, "William

Waighton Brown, et al. vs. Choctaw and Chickasaw Nations" (Choctaw Chickasaw Citizenship Court Case No. 73, Tishomingo Docket), "ordered, adjudged and decreed that the petition of the plaintiffs, William Waighton Brown (or William Knighton Brown), Caswell Marion Brown, Polly Ann Peck (nee Brown), George E. Brown (or George G. Brown), Honey Ellis Brown (or Honey Alice Brown), Sarah Brown, Mary Brown, Monie Brown (or Mamie Brown), Alice Brown, George Brown, Wendie Brown (or Maudie Brown), Willie Brown, Florence Peck, Oscar Peck, Benjamin Grant Peck, Andrew Peck, William Emma Brown (or Willie Emma Brown), James Burton Nichols, (or James Bruton Nichols), Oney Mayberry Nichols (or Orin Mayberry Nichols), John William Beffle Nichols, Della May Nichols, Nancy Valmer Nichols, James Willis Nichols, Maggie May Nichols, Myrtle Nichols, Lemie Alta Nichols, William Buford Brown, Nancy Caroline Nichols, Rebecca E. Brown (or Becky Brown), Rebecca C. Brown (or Rebecca Brown), Amanda Melvina Nichols, Amanda Brown, Nancy J. Brown (or Nancy Jane Brown), Sarah Brown, be denied, and that they be declared not citizens of the Choctaw Nation, and not entitled to enrollment as such citizens, and not entitled to any rights whatever flowing therefrom."

On December 12, 1904, orders were entered of record by the Commission to the Five Civilized Tribes dismissing the applications for the enrollment of Mary E. McCarty, William Erman Johnston, Minnie Gertrude Brown, Henry Hiten Brown, Elbert Knightington Brown, Otis Dewey Peck, Virgie Peck, Louis Norman Nichols and Golda Via Nichols as citizens by blood of the Choctaw Nation, and on March 18, 1906, an order was entered of record dismissing the application for the enrollment of Fannie C. Brown as a citizen by

blood of said nation. All of said applicants were dismissed for the reason that their parents through whom they claim their rights to enrollment as citizens by blood of the Choctaw Nation, had been denied by a decree of the Choctaw and Chickasaw Citizenship Court.

On December 12, 1904, orders were entered of record by the Commission to the Five Civilized Tribes dismissing the applications for the enrollment of Eli W. Brown, Bessie Nichols and Osa Nichols as citizens by intermarriage of the Choctaw Nation, for the reason that the persons through whom they claim their rights had also been denied by a decree of the Choctaw and Chickasaw Citizenship Court.

On March 30, 1905, the Commission to the Five Civilized Tribes denied the application for the enrollment of Susie Brown as a citizen by blood of the Choctaw Nation, and on April 8, 1906 (I.T.D. 3810-1906), the Department set aside said decision of the Commission and returned the record to this office for a full investigation upon its merits.

Under the regulations adopted by the Commissioner to the Five Civilized Tribes of January 2, 1906, there was filed on February 6, 1906, by Cruce, Cruce and Eleanore, of Ardmore, Indian Territory, attorneys for the petitioners, petitions praying that William N. Brown, Nancy A. Brown, Minnie Hudson, Sarah Johnston, Oscar Lee Johnston, William Erman Johnston, Rebecca Brown, Minnie Gertrude Brown, Henry Niten Brown, Rubie Dill Brown, Eli W. Brown, Mary A. Johnston, Ray Lester Johnston, Edna A. Johnston, Rebecca McCarty, William A. McCarty, Mary E. McCarty, William N. Brown, Nancy Jane Brown, George Brown, Alice Brown, Susie Brown, Cletus Brown, Clarence Brown, A. J. Peck, Felly Ann Peck, Minnie Peck, Oscar Sherman Peck, Benjamin Grant Peck, Andrew Peck, G. D. Peck,

Virgie Peck, Preble Peck, C. W. Brown, Amanda Brown, Mandy Brown, William Brown, Elbert K. Brown, Annie Jewel Brown, George S. Brown, Sarah Brown, Willie Emma Brown, Cassie Brown, Goldie Brown, J. B. Nichols, Nancy Nichols, Belma Nichols, John W. B. Nichols, Fessie Deaton Nichols, Louis Herman Nichols, Golda Eula Nichols, Silva Jewel Nichols, Della May Scott, Nema Scott, Orin M. Nichols, Amanda Nichols, Myrtle Nichols, Lemie Nichols, James V. Nichols, Osa Nichols, Cora Lee Nichols and Maggie Angel be enrolled as citizens of the Choctaw Nation.

All of the above petitioners, with the exception of Ollie McCarty, Lita Lois Scott, Daphne Myrtle Nichols and Teddy Golden Johnston, are identical with the applicants for whom application has been made for enrollment as citizens of the Choctaw Nation.

On April 16, 1906, the principal petitioners, their attorneys, Cruse, Cruse & Eleanore, of Ardmore, Indian Territory, and Messrs. Mansfield, McMurray & Cornish, attorneys for the Choctaw and Chickasaw Nations, of South McAlester, Indian Territory, were advised that the Commissioner to the Five Civilized Tribes would at his office at Muskogee, Indian Territory, on Monday, May 14, 1906, at nine o'clock A.M., hear such testimony and receive such other evidence as might be submitted by the petitioners in support of their applications for enrollment as citizens of the Choctaw Nation, and by the attorneys for the Choctaw and Chickasaw Nations.

On April 16, 1906, William W. Brown, father of Susie Brown, Cruse, Cruse & Eleanore, attorneys for said Susie Brown, and Mansfield, McMurray & Cornish, attorneys for the Choctaw and Chickasaw Nations, were advised that on April 6, 1906, the Department set aside the decision rendered by the Commission on March 29, 1905, and returned the record in said case with in-

instructions that a full investigation be made of the rights of said Sasie Brown to enrollment as a citizen by blood of the Choctaw Nation, that the testimony of creditable witnesses be required showing her Choctaw blood, if any, the time and place of her birth, her various residences, her ancestors, the privileges, if any, enjoyed by her and her parents as citizens of the Choctaw Nation, and notified that the Commissioner to the Five Civilized Tribes would at his office at Muskogee, Indian Territory, on Monday, May 14, 1906, at nine o'clock A.M., hear such testimony and receive such other evidence as might be submitted in support of said application, investigation to be conducted along the lines indicated by Department letter above referred to.

On motion of Attorney for applicants, the hearing in the matter of the above application was continued on April 26, 1906, to May 21, 1906.

On May 21, 1906, proceedings were had in the matter of said applications in pursuance to the notices above mentioned.

It appears from the record herein that the applicants, William E. Brown, Caswell M. Brown, Polly Ann Peck, George G. Brown, Nancy A. Brown and Bettie McGarty, are the children of the principal applicant, William E. Brown, and Rebecca Cooper (now deceased), who is alleged to have been a Choctaw Indian, and the daughter of William Cooper, who was the son of Johnny Cooper, an alleged Choctaw Indian, who resided near the line between the states of Tennessee and Mississippi; that Sarah Johnston, Becky Brown, Mary Johnston, Mamie (or Minnie) Hudson, Alice Brown, George Brown, Sasie Brown, Fannie C. Brown and Willie Clarence Brown, are the children of the applicants

William N. Brown and Nancy J. Brown, (the latter an applicant for intermarried rights); that William Erman, Oscar Lee and Teddy Golden Johnston are the children of the applicant, Sarah Johnston, and J. A. Johnston, a non-citizen; that Minnie Gertrude, Henry Niten and Rubie Dill Brown are the children of the applicants, Becky Brown and Eli W. Brown, (the latter an applicant for intermarried rights); that Roy Lester and Edna Arvel Johnston are the children of the applicant, Mary Johnston, and Jace J. Johnston, a non-citizen; that Maudie, Willie, Elbert Knightington, and Annie Jewell Brown are the children of the applicant, Caswell M. Brown and Amanda Brown (the latter an applicant for intermarried rights); that Florence, Oscar, Benjamin, Andrew, Otis Dewey Virgie and Prebble peck are the children of the applicant, Polly Ann Peck and Andrew J. Peck (the latter an applicant for intermarried rights); that Willie Emma, Cassie and Goldie Brown are the children of the applicants, George G. Brown and Sarah Brown (the latter an applicant for intermarried rights); that Mary Ethel, William A. and Ollie McCarty are the children of the applicant, Bettie McCarty, and Oliver McCarty, a non-citizen; that James B. Nichols and Orin M. Nichols are the children of Wilson Nichols (now deceased), a non-citizen, and Delitha Cooper (now deceased), who is alleged to have been a Choctaw Indian and the daughter of John Cooper, above referred to; that John W. B. Nichols, Della May Scott and Nancy V. Nichols are the children of the applicant, James B. Nichols and Nancy C. Nichols (the latter an applicant for intermarried rights); that Louis Herman, Golda Ula and Sylvie Jewel Nichols are the children of the applicant, John W. B. Nichols and Bessie Nichols (the latter an applicant for

intermarried rights); that Fema May and Lita Lois Scott are the children of the applicant, Della May Scott, and Burris Scott, a non-citizen; that James W., Maggie W., Nettie Myrtle and Lonie A. Nichols are the children of the applicant, Orin W. Nichols and Amanda L. Nichols (the latter an applicant for intermarried rights); and that the applicants, Cora Lee and Daphne Myrtle Nichols, are the children of the applicants, James W. Nichols and Osa Nichols (the latter an applicant for intermarried rights).

The applicant, William B. Brown, claims his right to citizenship in the Choctaw Nation by the virtue of his marriage on February 10, 1858, under the laws of the state of Arkansas, to Becky Cooper (now deceased); that Nancy Brown claims her right to enrollment as a citizen by intermarriage by virtue of her marriage to the applicant, William B. Brown, on September 21, 1879; that Eli W. Brown claims his right to enrollment as a citizen by intermarriage by virtue of his marriage on August 21, 1899, under the laws, customs and usages of the Chickasaw Nation to the applicant, Becky Brown, both of said applicants being at said time residents in good faith of the Chickasaw Nation; that Amanda Brown claims her right to enrollment as a citizen by intermarriage by virtue of her marriage on December 2, 1886, to the applicant, Caswell B. Brown; that Andrew J. Peck claims his right to enrollment as a citizen by intermarriage by virtue of his marriage on December 15, 1867, under the laws of the state of Arkansas to the applicant, Polly A. Peck; that Sarah Brown claims her right to enrollment as a citizen by intermarriage by virtue of her marriage to George C. Brown on June 9, 1896; that the applicant, Nancy C. Nichols claims her right to enrollment as a citizen by intermarriage by virtue of her marriage to the applicant, James B.

Nichols, on March 9, 1873; that the applicant, Bessie Nichols, claims her right to enrollment as a citizen by intermarriage by virtue of her marriage on September 11, 1898, to the applicant, John W. B. Nichols; that Amanda M. Nichols claims her right to enrollment as a citizen by intermarriage by virtue of her marriage on October 20, 1873, to the applicant, Orin M. Nichols; and that Osa Nichols claims her right to enrollment as a citizen by intermarriage by virtue of her marriage on April 27, 1899, to the applicant, James W. Nichols.

It does not appear from the record herein or from the records in the possession of this office that the applicant, Andrew J. Peck, has ever been admitted to Choctaw citizenship by a duly constituted court or committee of the Choctaw Nation, nor has said applicant ever been married to Polly Ann Peck, through whom he claims his intermarried rights, by virtue of a license issued by the tribal authorities of either the Choctaw or Chickasaw Nation.

At the hearing before the Commissioner to the Five Civilized Tribes on May 21, 1906, William M. Brown, Caswell M. Brown, James B. Nichols and Orin M. Nichols testified that in 1894, they, together with the other applicants herein who were living at said time, petitioned the Choctaw Council for admission as citizens of the Choctaw Nation; that no action having been taken thereon, they, in 1896, appeared before the Choctaw Census Commission and made application to be enrolled upon the 1896 Choctaw Census Roll; and that some time in January, 1897, they received a certificate from the Secretary of the Choctaw Revisory Board, wherein it appeared that they had been enrolled upon the 1896 Choctaw Census Roll. Said applicants further testified

that prior to 1896 they had been permitted to issue permits for their tenants, held lands, and were not subject to any tribal tax which was due from all non-citizens who were engaged in the mercantile business.

On June 4, 1906, John H. Gamblin testified that he was acquainted with the applicants Herwin, and that in October 1894, he having business before the Choctaw Council, presented on behalf of the applicants herein who were living at that time, a petition praying that they be admitted as citizens of the Choctaw Nation, and that he does not know what action, if any, was ever taken thereon.

Upon an examination of the tribal rolls of the Choctaw Nation in the possession of this office, it appears that the applicants, William B. Brown, William M. Brown, Nancy J. Brown, Caswell V. Brown, Amanda Brown, Polly Ann Peck, Andrew J. Peck, George G. Brown, Sarah Brown, Nancy A. Brown, Bettie McCarty, Sarah Johnston, Becky Brown, Mary Johnston, Mamie (or Minnie) Hudson, Alice Brown, George Brown, Susie Brown, Maudie Brown, Willie Brown, Florence Peck, Oscar Peck, Benjamin Peck, Andrew Peck, James B. Nichols, Nancy C. Nichols, Orin M. Nichols, Amanda M. Nichols, John W. B. Nichols, Della May Scott, Nancy V. Nichols, James W. Nichols, Maggie M. Nichols, Nettie Myrtle Nichols and Louis A. Nichols, are identified upon the 1896 Choctaw Census Roll, opposite Numbers 1698, 1691, 1692, 1701, 1702, 10518, 10517, 1703, 1706, 1699, 1690, 1693, 1694, 1695, 1696, 1697, 1698, 1699, 1703, 1704, 10519, 10520, 10521, 10522, 9803, 9808, 9812, 9813, 9809, 9810, 9811, 9814, 9815, 9816, and 9817, respectively.

It further appears from the record herein that all of

the applicants, that were living on June 28, 1898, were residents in good faith of the Indian Territory on said date.

The evidence in this case further shows that the applicant, Daphne Myrtle Nichols, died on June 27, 1901.

I am of the opinion that in accordance with the opinions of the Assistant Attorney General for the Department of the Interior of February 10, 1905 (I.T.D. 10353-1904), and December 8, 1905 (I.T.D. 3693-1905), in the case of Lula West, the action of the Commission to the Five Civilized Tribes, and the subsequent action of the United States Court for the Southern District of Indian Territory, and the Choctaw and Chickasaw Citizenship Court, upon the right of the applicants who applied to the Commission to the Five Civilized Tribes in 1896, with the exception of Andrew J. Peck, was without authority of law, and of no force and effect upon the status of said applicants as citizens of the Choctaw Nation.

I am further of the opinion that the orders of the Commission to the Five Civilized Tribes of December 12, 1904 and March 18, 1905, dismissing the applications for the enrollment of Mary E. McCarty, William Erman Johnston, Winnie Gertrude Brown, Fannie C. Brown, Henry Eiten Brown, Elbert Knightington Brown, Otis Dewey Peck, Virgie Peck, Louis Herman Nichols and Golda Ula Nichols as citizens by blood of the Choctaw Nation, and Eli W. Brown, Bessie Nichols and Osa Nichols as citizens by inter-marriage of the Choctaw Nation, should be rescinded.

I am further of the opinion that in accordance with the opinions of the Assistant Attorney General for the Department of the Interior of March 3, 1905 (I.T.D. 187-1905) and March 10,

1906 (I.T.D. 9909-1906), Nancy A. Brown, Bettie McCarty, Mary Ethel McCarty, William M. Brown, Sarah Johnston, Becky Brown, Mary Johnston, Samie (or Winnie) Hudson, Alice Brown, George Brown, Susie Brown, William Erman Johnston, Minnie Gertrude Brown, Henry Witen Brown, Fannie C. Brown, Caswell M. Brown, Maudie Brown, Willie Brown, Elbert Knightington Brown, Polly A. Peck, Florence Peck, Oscar Peck, Benjamin Peck, Andrew Peck, Otis Dewey Peck, Virgie Peck, George C. Brown, Willie Emma Brown, James B. Nichols, Della May Scott, Nancy V. Nichols, John W. B. Nichols, Louis Herman Nichols, Gelda Ula Nichols, Orin M. Nichols, James W. Nichols, Maggie M. Nichols, Nettie Myrtle Nichols and Lonie A. Nichols should be enrolled as citizens by blood of the Choctaw Nation, under the provisions of the Acts of Congress approved June 28, 1898 (30 Stats., 495), and July 1, 1902 (32 Stats., 641), and it is so ordered.

I am further of the opinion that William B. Brown, Nancy Brown, Eli W. Brown, Amanda Brown, Sarah Brown, Nancy C. Nichols, Bessie Nichols, Amanda V. Nichols and Osa Nichols should be enrolled as citizens by intermarriage of the Choctaw Nation, under the provisions of the Acts of Congress approved June 28, 1898 (30 Stats., 495) and July 1, 1902 (32 Stats., 641), and it is so ordered.

I am further of the opinion that the application made for the enrollment of Andrew J. Peck as a citizen by intermarriage of the Choctaw Nation should be denied, under the provisions of the Act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered.

I am further of the opinion that William A. McCarty, Ollie McCarty, Oscar Lee Johnston, Willie Clarence Brown, Roy

Lester Johnston, Edna Arvel Johnston, Teddy Golden Johnston, Rubie Bill Brown, Annie Jewell Brown, Prebble Peck, Cassie Brown, Goldie Brown, Hema May Scott, Lita Leis Scott, Sylvie Jewel Nichols and Cora Lee Nichols should be enrolled as citizens by blood of the Choctaw Nation, under the provisions of the Act of Congress approved April 26, 1906 (Public No. 129), and it is so ordered.

I am further of the opinion that the application made for the enrollment of Daphne Myrtle Nichols as a citizen by blood of the Choctaw Nation should be dismissed, and it is so ordered.

Tamm Bixby,
COMMISSIONER.

Muskogee, Indian Territory,
Aug. 13, 1906.

Muskogee, Indian Territory, August 13, 1906.

George C. Brown,

Coranche, Indian Territory.

Dear Sir:

Inclosed herewith you will find a copy of the decision of the Commissioner to the Five Civilized Tribes, rendered August 13, 1906, granting the application for the enrollment of yourself, your children, Willie Emma Brown, Cassie Brown and Goldie Brown, as citizens by blood, and of your wife, Sarah Brown, as a citizen by inter-marriage of the Choctaw Nation.

The decision, with the record of proceedings in the case, is this day transmitted to the Secretary of the Interior for review. The final decision of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

Commissioner.

Registered.

Incl. NAH 16/13

7-8040

Waskagan, Indian Territory, August 13, 1906.

Cruce, Cruce & Bleakmore,
Attorneys at Law,
Ardmore, Indian Territory,
Gentlemen

Inclosed herewith you will find a copy of the decision of the Commissioner to the Five Civilized Tribes, rendered August 13, 1906, granting the application for the enrollment of Nancy A. Brown, Bettie McCarty, Mary Ethel McCarty, William N. Brown, Sarah Johnston Pecky Brown, Mary Johnston, Mamie (or Winnie) Hudson, Alice Brown, George Brown, Lucie Brown, William Erman Johnston, Minnie Gertrude Brown, Henry Hiten Brown, Fannie C. Brown, Cassell M. Brown, Maude Brown, Willie Brown, Albert Knightington Brown, Polly A. Peck, Florence Peck, Oscar Peck, Benjamin Peck, Andrew Peck, Otis Dewey Peck, Virgie Peck, George G. Brown, Willie Emma Brown, James E. Nichols, Della May Scott, Nancy V. Nichols, John W. E. Nichols, Louis Herman Nichols, Golda Ula Nichols, Orin M. Nichols, James W. Nichols, Maggie M. Nichols, Nettie Myrtle Nichols, Lenie A. Nichols, William A. McCarty, Ollie McCarty, Oscar Lee Johnston, Willie Clarence Brown, Ray Lester Johnston, Edna Arvel Johnston, Teddy Golden Johnston, Rubie Hill Brown, Annie Jewell Brown, Prebble Peck,

Cassie Brown, Goldie Brown, Rena May Scott, Lita Lois Scott, Sylvie Jewel Nichols and Cora Lee Nichols, as citizens by blood, and for the enrollment of William B. Brown, Nancy Brown, Eli W. Brown, Amanda Brown, Sarah Brown, Nancy C. Nichols, Vencie Nichols, Amanda V. Nichols and Osa Nichols, as citizens by intermarriage, of the Cheetaw Nation; denying the application for the enrollment of Andrew J. Peck, as a citizen by intermarriage, and dismissing the application for the enrollment of Daphne Myrtle Nichols as a citizen by blood of the Cheetaw Nation.

The decision, with the record of proceedings in the case, is this day transmitted to the Secretary of the Interior for review. The final decision of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

Registered.

Commissioner.

Incl. NAM 19/11

Muskogee, Indian Territory, August 13, 1906.

Mansfield, McMurray & Cornish,

Attorneys for Choctaw and Chickasaw Nations,

South McAlester, Indian Territory,

Gentlemen:

Inclosed herewith you will find a copy of the decision of the Commissioner to the Five Civilized Tribes, rendered August 13, 1906, granting the application for the enrollment of Nancy A. Brown, Bettie McCarty, Mary Ethel McCarty, William N. Brown, Sarah Johnston, Becky Brown, Mary Johnston, Mamie (or Minnie) Hudson, Alice Brown, George Brown, Susie Brown, William Erman Johnston, Minnie Gertrude Brown, Henry Witen Brown, Fannie C. Brown, Caswell M. Brown, Maudie Brown, Willie Brown, Elbert Knightington Brown, Polly A. Peck, Florence Peck, Oscar Peck, Benjamin Peck, Andrew Peck, Otis Dewey Peck, Virgie Peck, George G. Brown, Willie Emma Brown, James E. Nichols, Della May Scott, Nancy V. Nichols, John W. N. Nichols, Louis Herman Nichols, Golda Ula Nichols, Orin M. Nichols, James W. Nichols, Maggie M. Nichols, Nettie Myrtle Nichols, Lonie A. Nichols, William A. McCarty, Ellie McCarty, Oscar Lee Johnston, Willie Clarence Brown, Ray Lester Johnston, Edna Arvel Johnston, Teddy Golden Johnston, Eddie Bill Brown, Annie Jewell Brown, Freddie Peck,

Manefield, McMurray & Cernish--2

Cassie Brown, Goldie Brown, Nema May Scott, Lita Lois Scott, Sylvie Jewel Nichols and Cora Lee Nichols, as citizens by blood, and for the enrollment of William B. Brown, Nancy Brown, Eli W. Brown, Amanda Brown, Sarah Brown, Nancy C. Nichols, Bessie Nichols, Amanda M. Nichols and Osa Nichols, as citizens by intermarriage, of the Cheetaw Nation; denying the application for the enrollment of Andrew J. Peck as a citizen by intermarriage, and dismissing the application for the enrollment of Daphne Myrtle Nichols as a citizen by blood, of the Cheetaw Nation.

The decision, with the record of proceedings in the case, is this day transmitted to the Secretary of the Interior for review. The final decision of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

Registered.

Incl. NAK 17/11

Commissioner.

1891-1892

11

9

MISSISSIPPI CHOCTAW.

189

IN RE

Application for Enrollment of

MINOR CHILD

Act of Congress Approved
April 28, 1906.

Willie Emeri Brown

as a citizen of

Choctaw Nation.

Approved..... 1906

Commissioner.

Born Mar 22 - 1896

ACT OF CONGRESS, APRIL 28, 1906.
DEPARTMENT OF

Commissioner of the Bureau of Indian Affairs

FILED

JUL 23 1906

MISSISSIPPI CHOCTAW.

~~WILL BROWN~~

Commissioner.

283

Cannot Identify

7-552

RECEIVED

JUL 20 1906

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

ENROLLMENT OF MINORS. ACT OF CONGRESS, APPROVED APRIL 20, 1906.

IN RE APPLICATION FOR ENROLLMENT, as a citizen of the Cholatan Nation,
of Willie Emer Brown (Here insert name of child), born on the 22 day of March, 1896
Name of Father: George G. Brown a citizen of the Cholatan Nation.
Name of Mother: Sarah Brown a citizen of the Cholatan Nation.
Tribal enrollment of father: George G. Brown Tribal enrollment of mother: Sarah Brown
Postoffice: Marlaret Ark

AFFIDAVIT OF MOTHER.

UNITED STATES OF AMERICA, Indian Territory,

District.

I, George G. Brown Sarah Brown on oath state that I am 30
years of age and a citizen by inter marriage of the Cholatan Nation;
that I am the lawful wife of George G. Brown, who is a citizen, of
Saint Joe By Blood of the Cholatan Nation; that a child was
born to me on the 22 day of March, 1896 that said child has been named
Willie Emer Brown and was living March 4, 1906.

Sarah Brown

WITNESSES TO MARK:

[Must be Two
Witnesses]

Subscribed and sworn to before me this 24 day of May, 1906.

R. H. Johnson J. P.

AFFIDAVIT OF ATTENDING PHYSICIAN OR MID-WIFE.

UNITED STATES OF AMERICA, Indian Territory,

District.

I, R. H. Davis, a Physician, on oath state that I
attended on Sarah Brown, wife of George G. Brown
on the 22 day of March, 1896; that there was born to her on said date a girl
child; that said child was living March 4, 1906, and is said to have been named Willie Emer Brown.

R. H. Davis M.D.

WITNESSES TO MARK:

[Must be Two
Witnesses]

Subscribed and sworn to before me this 24 day of May, 1906.

R. H. Johnson J. P.

SPECIAL.

J.P.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

FRE

D.C. 2920-1907.
I.T.D. 25868-1906.
818-1907.

January 15, 1907.

LRS

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

Referring to departmental letters of January 9 and 14, 1907, in the matter of the application for the enrollment of Mattie Shockley et al., as citizens by blood of the Choctaw Nation, you are advised that by direction of the President the case will be submitted to the Attorney-General for his opinion. You will suspend action relative to these claimants until further advised.

Respectfully,

Thos Ryan

First Assistant Secretary.

D.O.M.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

J.V.H.
W.C.R.
J.W.L.

GVV
File 8-51.

March 1, 1909.

The Commissioner
to the Five Civilized Tribes.

Sir:

January 25, 1909, you were advised that the names of certain persons were inadvertently included in Departmental letter of January 19, 1909 (File 8-51); that such mistake was due to the fact that it was supposed they were enrolled upon schedules approved by the Department, when in fact, the only schedules upon which their names appear were disapproved, and that no action should be taken under the circumstances looking to the erasure of interlineations or notations, if any, from the disapproved schedules, in connection with their names.

The names of the persons referred to in said letter of January 25, 1909, are as follows:

Shown by List.

Roll No.

16183

Mizabeth Allen.

16112

George A. Dugan.

16110

Louella Grubbsfield.

16106

Berrett Grubbsfield.

16111	George W. Crutchfield.
16106	Ida Crutchfield.
16107	Ima Crutchfield.
16108	Louvinia Crutchfield.
16109	William Crutchfield.
921	Josephine Laflere Long.
922	Jake Laflere Long.
16104	David Ritter.

It now appears from the records of the Secretary's Office that there was a schedule approved May 21, 1904, by the Secretary of the Interior, and that the approval then given was cancelled by said Secretary at a later date, to-wit, June 28, 1904.

The name of Elizabeth Allen appears upon the schedule which was approved May 21, 1904, opposite the number 16551. Ida Crutchfield's name appears opposite No. 16553, while the other members of the Crutchfield family were given the numbers immediately following that assigned to her.

You are requested to cause a report to be prepared showing whether the records of your office also show that an earlier schedule containing the names of said persons was approved May 21, 1904; also whether such approval was cancelled June 28, 1904. Please report also the reason for the attempted cancellation, and whether prior notice was given thereof.

It appears further that, in connection with the names of Elizabeth Allen and the Gratchfield family on the roll approved May 21, 1904, the names of Ardella Hickman, Ida M. Southard and Grever Randall are also to be found.

In connection with said names, it is desired that you will report what action, in your opinion, should be taken concerning the first of said persons; also whether the said Ida M. Southard and Grever Randall, respectively, are identical with the Ida M. Southard whose name appears opposite No. 15880 in the printed rolls of citizens by blood of the Chester Nation, and the Grever Randall whose name appears on page 8 of Departmental letter of January 19, 1909 (File 5-51), opposite No. 15928.

As appears from the above list, there were other persons besides the said Allen and Gratchfields whose names were enrolled on schedules which were finally disapproved by the Department: for example, George A. Buegarner, Josephine Infiore Long and Jake Infiore Long.

Please report whether the names of these persons appear upon any prior approved schedule; also why it was that the Commissioner to the Five Civilized Tribes enrolled them upon the schedule which was disapproved by the Department, showing whether the Commissioner enrolled them thereon, of his own motion, or under decision or instructions from the Department.

By comparison of the roll approved May 21, 1904, with the printed rolls of Chesters by blood, the Department

finds that the numbers appearing thereon opposite the names of said persons were subsequently assigned to other citizens of the Choctaw Nation; thereby the series of roll numbers was kept perfect, but a material portion of the rolls was evidently sacrificed upon the supposition that it had become worthless. Inquiry arises in this connection as to whether there were other approved schedules which were subsequently disapproved and thrown aside. Accordingly, it is desired that you also cause a report to be prepared covering this feature of the matter, showing all persons embraced in similar cases, with recommendation as to what action should be taken as to them. This will necessitate a statement as to why their names were stricken or cancelled from the rolls, and whether such action was taken without prior notice.

There is still another matter concerning which the Department desires report to be made. It is observed that the words "No person enrolled at this number" are to be found not infrequently opposite consecutive numbers on the pages of the printed rolls; and you are requested to advise the Department whether such words were substituted for the names of individuals appearing on disapproved schedules, and if such is the case, whether such disapproved schedules were approved at any time by the Department; also whether favorable decisions were ever rendered by the Department as to such persons prior to their enrollment upon such disapproved schedules.

For the sake of expedition, a partial report should be rendered at once concerning the said Elizabeth Allen and the various members of the Gratchfield family named above. The other matters referred to herein can be disposed of by subsequent reports.

Very respectfully,

James H. Wilson,

Assistant Secretary.

Through the
Indian Office.

Land
62226-02
17077-02

JTH

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON, D. C., Mar. 3, 00.

Respectfully referred to the Commissioner
to the Five Civilized Tribes, for
appropriate action.

John Francis, Jr.
Acting Chief Land Division.

1 letter dated Mar. 1, 00.

D 460-1908

Muskogee, Oklahoma, April 20, 1909.

Subject:

Requesting report relative
to petition of Wm. B. Brown
et al. for enrollment as
citizens of the Choctaw
Nation.

The Honorable,

The Secretary of the Interior,

Sir:

Receipt is hereby acknowledged of Indian Office letter of
April 9, 1909 (Land 23090-1909) transmitting petition of Wm.
B. Brown, et al. for enrollment as citizens of the Choctaw
Nation. This office is also requested to report specially
whether the names of any of the persons in the petition ap-
peared upon any tribal rolls of the Choctaw Nation or upon any
roll prepared by the Commission to the Five Civilized Tribes
and approved by the Secretary of the Interior.

March 1, 1909, the Department also addressed a letter to
this office requesting reports as to all persons whose names
may have been upon disapproved schedules and at whose numbers
in the printed rolls appears the notation "No person enrolled
at this number."

Secretary 2

The case of William E. Brown is one of the cases referred to in Departmental letter of March 1, 1900 and the report is made to the Secretary of the Interior, through the Indian Office, with the view of complying with both requests.

I have the honor to report as follows, relative to the case of William E. Brown and the other members of his family who were included in the decision in the consolidated Chectaw case of William E. Brown, et al.:

It appears from the records of this office that on September 9, 1896, in the case entitled Nancy Cooper et al. versus the Chectaw Nation, 1896 Chectaw Citizenship Case Number 1418, original application was made to the Commission to the Five Civilized Tribes, under the provisions of the Act of Congress approved June 10, 1896 (29 Stat., 321), for admission to citizenship in the Chectaw Nation of the applicants, Nancy A. Brown (as Nancy Alice Brown), Bettie McCarty (as Rebecca Elizabeth Brown), William E. Brown (as William Elton Brown), Sarah Johnston (as Sarah Elizabeth Brown), Becky Brown (as Rebecca Catherine Brown), Mary Brown (as Mary Arrillie Brown), Mamie (or Minnie) Hudson (as Minnie Ann Brown), Alice Brown, George Brown (as George Montgomery Brown), Cassell M. Brown, Maudie Brown (as Maudy E. Brown), Willie Brown (as William C. Brown), Polly A. Peck (as Polly Ann Peck), Florence

Secretary 3

Peck (as Minnie F. Peck), Oscar Peck (as Oscar S. Peck), Benjamin Peck (as Benjamin G. Peck), Andrew Peck, George C. Brown, Willie Emma Brown, James B. Nichols, (as James Bruton Nichols), Della May Scott (as Mary Della May Nichols), Nancy V. Nichols (as Maunie Velma Nichols), John W. B. Nichols (as John William Bethuel Nichols), Orrin M. Nichols (as Orrin Mayberry Nichols), James V. Nichols (as James Willis Nichols), Maggie M. Nichols (as Maggie May Nichols), Mattie Myrtle Nichols, Louie A. Nichols (as Louie Ata Nichols), as citizens by blood, and for the admission of William B. Brown, Nancy J. Brown (as Nancy Jane Brown), Amanda Brown, Andrew J. Peck (as A. J. Peck), Sarah Brown, Nancy C. Nichols (as Nancy Caroline Nichols), and Amanda M. Nichols (as Amanda Melvina Nichols), as citizens by intermarriage of said nation; and that on December 2, 1896, said Commission rendered its decision denying the applications for citizenship of the above named persons.

From this decision of the Commission an appeal was taken to the United States Court for the Southern District of Indian Territory, which court on December 20, 1897, in the case entitled Nancy J. Cooper, et al. versus the Choctaw Nation, Case Number 96 on the Citizenship Docket, admitted Nancy A. Brown (as Nancy Alice Brown), Bettie McCarty (as Bettie Brown), Sarah Johnston (as Sarah Brown), Rocky Brown,

Secretary 4

Mary Brown, Mamie (or Minnie) Hudson (as Mamie Brown), Alice Brown, George Brown, Essie Brown, Caswell M. Brown (as Caswell Marion Brown), Maudie Brown, Willie Brown, Pelly A. Peck (as Pelly Ann Peck), Florence Peck, Oscar Peck, Benjamin Peck (as Benjamin Grant Peck), Andrew Peck, George G. Brown, Willie Emma Brown, James B. Nichols (as James Bruton Nichols), Della May Scott (as Della May Nichols), Nancy V. Nichols (as Nancy Volmer Nichols), Orin M. Nichols (as Orin Mayberry Nichols), James W. Nichols (as James Willis Nichols), Maggie M. Nichols (as Maggie May Nichols), Nettie Myrtle Nichols (as Myrtle Nichols), and Lenie A. Nichols (as Lenie Ata Nichols) as citizens by blood of the Choctaw Nation, and William B. Brown (as William Bluford Brown), Andrew J. Peck (as Andrew Jackson Peck), and Nancy C. Nichols (as Nancy Caroline Nichols) as citizens by intermarriage of said Nation, and denied the applications for the admission of Nancy J. Brown (as Nancy Jane Brown), Sarah Brown and Amanda M. Nichols (as Amanda Melvina Nichols) as citizens by intermarriage of the Choctaw Nation. The name of the applicant, Essie Brown, was interpolated in the judgment of said court, she not having been an applicant before the Commission to the Five Civilized Tribes in 1896.

March 18, 1898, this case again came before the United States Court upon a motion of the plaintiffs' attorneys to

Secretary 8

correct the judgment of said court rendered December 20, 1897, and the court thereupon ordered said judgment corrected so as to admit the applicants, Nancy J. Brown (as Nancy Jane Brown), Sarah Brown, Amanda M. Nichols (as Amanda Melvina Nichols) as citizens by intermarriage of the Choctaw Nation.

September 23, 1898, said court rendered a supplemental judgment admitting Amanda Brown as a citizen by intermarriage of the Choctaw Nation.

January 17, 1900, this cause again came before the court upon a motion of the defendant to strike out of the judgment theretofore rendered certain names improperly admitted to citizenship, and the court ordered that the names of Susie Brown, Andrew J. Peck (as Andrew Jackson Peck), Bettie McCarty (as Bettie Brown), and Becky Brown be stricken from said former judgment.

Subsequently, upon the representation of the plaintiffs' attorneys that certain persons who were original applicants were by oversight or mistake left out of the original judgment theretofore rendered, the court ordered that the applicants, Nancy J. Brown (as Nancy Jane Brown), Sarah Brown, Amanda Brown, Amanda M. Nichols and Rebecca E. Brown be admitted to citizenship in the Choctaw Nation.

December 17, 1902, the Choctaw and Chickasaw Citizenship

Secretary 6

Court, created under the provisions of the Act of Congress approved July 1, 1902 (32 Stat., 641), "set aside, annulled, vacated and held for naught" the aforesaid judgment of the United States Court for the Southern District of the Indian Territory.

The record in this case was subsequently certified to the Choctaw and Chickasaw Citizenship Court for a trial de novo, which court, November 29, 1904, in the case entitled William Heighston Brown, et al. versus the Choctaw and Chickasaw Nations, Number 73 on the Tishomingo Docket, ordered, adjudged and decreed that the petition of the plaintiffs be denied and that they be declared not citizens of the Choctaw Nation, and not entitled to enrollment as such citizens, and not entitled to any rights whatever flowing therefrom.

December 12, 1904, orders were entered of record by the Commission to the Five Civilized Tribes dismissing the applications for the enrollment of Mary H. McCarty, William Erman Johnston, Minnie Gertrude Brown, Henry Eiten Brown, Elbert Knightington Brown, Otis Dwey Peck, Virgie Peck, Louis Herman Nichols and Gelda Ula Nichols as citizens by blood of the Choctaw Nation and March 18, 1905, and order was entered of record dismissing the application for the enrollment of Fannie C. Brown as a citizen by blood of said nation.

Secretary 7

for the reason that the parents of these children had been denied by a decree of the Choctaw and Chickasaw Citizenship Court.

December 12, 1904, orders were entered of record by the Commission dismissing the applications for the enrollment of Eli W. Brown, Beasie Nichols and Osa Nichols as citizens by intermarriage of the Choctaw Nation for the reason that the persons through whom they claimed their rights had been denied by a decree of the Choctaw and Chickasaw Citizenship Court.

March 30, 1905, the Commission to the Five Civilized Tribes denied the application for the enrollment of Beasie Brown as a citizen by blood of the Choctaw Nation, and on April 6, 1906 (I T D 3810-1905) the Department set aside this decision of the Commission and returned the record to this office for investigation upon its merits.

Under the regulations adopted by the Commissioner to the Five Civilized Tribes of January 2, 1906, there were filed on February 6, 1906, by Crues, Crues & Bleakmore, attorneys for the petitioners, Ardmore, Indian Territory, petitions praying that William B. Brown, Nancy A. Brown, Minnie Hudson, Sarah Johnston, Oscar Lee Johnston, William Herman Johnston, Rebecca Brown, Minnie Gertrude Brown, Henry

Secretary 8

Niten Brown, Abbie Hill Brown, Eli W. Brown, Mary A. Johnston, Roy Lester Johnston, Mina A. Johnston, Rebecca McCarty, William A. McCarty, Mary E. McCarty, William E. Brown, Nancy Jane Brown, George Brown, Alice Brown, Susie Brown, Cletus Brown, Clarence Brown, A. J. Peck, Polly Ann Peck, Minnie Peck, Oscar Sherman Peck, Benjamin Grant Peck, Andrew Peck, O. D. Peck, Virgie Peck, Prebble Peck, C. E. Brown, Amanda Brown, Mandy Brown, William Brown, Elbert K. Brown, Annie Jewel Brown, George G. Brown, Sarah Brown, Willie Emma Brown, Cassie Brown, Goldie Brown, J. E. Nichols, Nancy Nichols, Elma Nichols, John W. B. Nichols, Bessie Eaton Nichols, Lenie Herman Nichols, GoldaMula Nichols, Silva Jewel Nichols, Della May Scott, WemaScott, Orin M. Nichols, Amanda Nichols, Myrtle Nichols, Lenie Nichols, James W. Nichols, Osa Nichols, Cora Lee Nichols and Maggie Angel be enrolled as citizens of the Choctaw Nation.

April 16, 1906, the principal petitioners, their attorneys of record and the attorneys for the Choctaw and Chickasaw Nations, were advised that a hearing would be had in this matter at the office of the Commissioner to the Five Civilized Tribes, Muskogee, Indian Territory, Monday, May 14, 1906, at nine o'clock A. M. and on the same date, William E. Brown, father of Maie Brown, Grace, Grace & Blackmore, and Wema-

Secretary 9

field, McMurray & Cornish, were advised that on April 6, 1906, the Department had set aside the decision of the Commission to the Five Civilized Tribes of March 30, 1905, and returned the record with instructions that a full investigation be made of the rights of the said Basie Brown to enrollment as a citizen by blood of the Choctaw Nation, and that such testimony and evidence would be received at the date of the hearing on the petition.

On motion of attorneys for applicants the hearing was continued until May 21, 1906, on which date proceedings were had in the matter of said petition in pursuance to the notices above mentioned.

At the hearing William M. Brown, Cassell M. Brown, James B. Nichols and Orin M. Nichols testified that in 1894, they, together with the other applicants herein who were living at that time, petitioned the Choctaw Council for admission as citizens of the Choctaw Nation; that no action having been taken by the Council as to their case they, in 1896, appeared before the Choctaw Census Commission and made application to be enrolled upon the 1896 Choctaw Census Roll; that some time in January, 1897, they received a certificate from the Secretary of the Choctaw Revisory Board, wherein it appeared that they had been enrolled upon the 1896 Choctaw Census Roll.

Secretary 10

It appears that the applicants, William B. Brown, William H. Brown, Nancy J. Brown, Caswell M. Brown, Amanda Brown, Pabby Ann Peck, Andrew J. Peck, George G. Brown, Sarah Brown, Nancy A. Brown, Bettie McCarty, Sarah Johnston, Becky Brown, Mary Johnston, Mamie (or Minnie) Hudson, Alice Brown, George Brown, Susie Brown, Maudie Brown, Willie Brown, Florence Peck, Oscar Peck, Benjamin Peck, Andrew Peck, James B. Nichols, Nancy C. Nichols, Orin M. Nichols, Amanda M. Nichols, John W. B. Nichols, Della May Scott, Nancy V. Nichols, James V. Nichols, Maggie M. Nichols, Nettie Myrtle Nichols and Lonie A. Nichols are identified upon the 1896 Census Roll of the Choctaw Nation, Blue County.

August 13, 1906, the Commissioner to the Five Civilized Tribes rendered a decision, in accordance with the opinion of the Assistant Attorney General for the Department of the Interior of February 10, 1905 (I T D 10353-1904) and December 8, 1905 (I T D 3693-1905) in the case of Lula West, holding that the action of the Commission to the Five Civilized Tribes and the subsequent action of the United States Court for the Southern District of Indian Territory and the Choctaw and Chickasaw Citizenship Court upon the right of the applicants who applied to said Commission in 1896, with the exception of Andrew J. Peck, was without authority of law,

Secretary 11

and of no force and effect upon the status of said applicants as citizens of the Choctaw Nation.

He also rescinded the orders of the Commission to the Five Civilized Tribes of December 12, 1904, and March 18, 1905, dismissing the applications for the enrollment of Mary E. McCarty, William Ernan Johnston, Minnie Gertrude Brown, Fannie C. Brown, Henry Hiten Brown, Elbert Knightington Brown, Otis Dewey Peck, Virgie Peck, Louis Herman Nichols and Golda Ula Nichols as citizens by blood of the Choctaw Nation and Eli W. Brown, Beasie Nichols and Osa Nichols as citizens by intermarriage of the Choctaw Nation.

The Commissioner to the Five Civilized Tribes further held, in accordance with the opinions of the Assistant Attorney General for the Department of the Interior of March 3, 1905 (I T D 187-1905) and March 10, 1906 (I T D 9969-1906) that Nancy A. Brown, Bettie McCarty, Mary Ethel McCarty, William W. Brown, Sarah Johnston, Becky Brown, Mary Johnston, Mamie (or Minnie) Hudson, Alice Brown, George Brown, Rufe Brown, William Ernan Johnston, Minnie Gertrude Brown, Henry Hiten Brown, Fannie C. Brown, Howell E. Brown, Mamie Brown, Willie Brown, Elbert Knightington Brown, Pelly A. Peck, Florence Peck, Oscar Peck, Benjamin Peck, Andrew Peck, Otis Dewey

Secretary 12

Peck, Virgie Peck, George G. Brown, Willie Emma Brown, James B. Nichols, Della May Scott, Nancy V. Nichols, John W. B. Nichols, Louie Herman Nichols, Golda Ula Nichols, Grin W. Nichols, James W. Nichols, Maggie M. Nichols, Nettie Myrtle Nichols, and Leni A. Nichols should be enrolled as citizens by blood and William B. Brown, Nancy Brown, Eli W. Brown, Amanda Brown, Sarah Brown, Nancy C. Nichols, Bessie Nichols, Amanda M. Nichols and Osa Nichols as citizens by intermarriage of the Choctaw Nation under the provisions of the Acts of Congress approved June 28, 1898 (30 Stat., 495) and July 1, 1902 (32 Stat., 641).

The applications for the enrollment of William A. McCarty, Ollie McCarty, Oscar Lee Johnston, Willie Clarence Brown, Roy Lester Johnston, Edna Arvel Johnston, Teddy Golden Johnston, Ebbe Dill Brown, Annie Jewell Brown, Prebbie Peck Cassie Brown, Goldie Brown, Nema May Scott, Lita Lois Scott, Sylvie Jewel Nichols and Oera Lee Nichols were also granted under the provisions of the Act of Congress approved April 26, 1906 (34 Stat., 137).

The application for the enrollment of Andrew J. Peck as a citizen by intermarriage was denied and the application for the enrollment of Daphne Myrtle Nichols as a citizen by blood of the Choctaw Nation was dismissed.

Secretary 13

August 14, 1906, the record in this case, together with the decision of August 13, 1906, was transmitted to the Department.

February 7, 1907, there were transmitted to the Secretary of the Interior schedules of citizens by blood and marriage of the Choctaw Nation containing the names of the persons who were favorably passed upon by the Commissioner to the Five Civilized Tribes August 13, 1906, in the Choctaw enrollment case of William B. Brown, et al., as follows:

Citizens by blood . . . Nos. 1611 to 16159, inclusive.
Citizens by marriage / . Nos. 1638 to 1648, inclusive.
Minor citizens by blood Nos. 857 to 872, inclusive.

This case was analogous to the case of Mattie Shockley, et al. (Loula West case) in which this office had been directed to suspend action until the Attorney General had passed upon the questions involved in that case, but inasmuch as the time within which persons could be enrolled and their enrollment approved by the Secretary of the Interior under the provisions of the Act of Congress approved April 26, 1906, was becoming very short, the schedules above described were prepared by this office without waiting for the opinion of the Attorney General and were forwarded to the Department in order that, if the opinion of the Attorney General were favorable, the rights of these applicants might be protected without

Secretary 24

delay, and this office requested, in the event of such favorable opinion of the Attorney General, that these schedules be approved by the Secretary of the Interior.

February 26, 1907, referring to Departmental letter of February 23, 1907 (I T D 4864-1907) requesting this office to forward a list of those persons whose enrollment should be cancelled in view of the opinion of the Attorney General of February 19, 1907, in the Groatow enrollment cases of Loula West and William C. Thompson, the Commissioner to the Five Civilized Tribes called the attention of the Department to the schedules above described which were forwarded February 7, 1907, and advised that this case was analogous to the case of Loula West. It was, therefore, recommended that the decision of August 13, 1906, be not approved by the Department and that the schedules transmitted with office letter of February 7, 1907, be disapproved by the Secretary of the Interior.

February 28, 1907 (Land 71868-1906, 8220, 14412-1907) the Indian Office forwarded to the Department the record in the case of William B. Brown, et al. together with the schedules transmitted February 7, 1907, and recommended, in view of the opinion of the Attorney General of February 19, 1907, that the decision of the Commissioner of August 13, 1906, in

Secretary 15

so far as it was favorable to the applicants, be reversed and the schedules disapproved, which was done by the Department March 1, 1907 (I T D 5742-1907).

This office has no record of any favorable decision of the Department as to the persons included in this consolidated case.

No formal allotments were made to the persons included in this case but applications were made on their behalf for certain lands which were involved in Chickasaw contest cases. Subsequent to March 4, 1907, these contests were dismissed and on August 31, 1907, a motion to reinstate said contests was denied.

August 22, 1907, the Department advised this office that by letter of August 5, 1907, counsel for the claimants in the case of William B. Brown, et al. requested that the order of the Department of June 14, 1907, in the case of William C. Thompson and others, suspending action on claims to allotments of lands be made applicable to them.

September 20, 1907, this office reported that it did not appear that the claimants in the case of William B. Brown, et al. possessed the same status as the claimants in the case of William C. Thompson, et al. as their names had never been upon an approved roll, but that it appeared they occupied

Secretary 16

the same status as the persons included in the case of John N. Gamblin and the case of Angus A. Spring.

October 12, 1907 (I T N 77893-1907) the Indian Office held that the action of the Commissioner to the Five Civilized Tribes in dismissing the contests on behalf of these claimants, and in refusing to reinstate the same, was proper and recommended that he be advised that all applications for allotments on behalf of these persons should be denied and this recommendation was approved by the Department October 14, 1907.

Following these instructions of the Department the lands in contest were awarded to the contestees, and patents therefor were recorded and delivered to them. It is believed, therefore, that these persons, in the event of a favorable decision relative to their enrollment, could not recover the land referred to, and if they are holding or claiming other land this office has no record of such claim.

If they are now in possession of other lands in the Choctaw and Chickasaw Nations, this office will, however, upon the receipt of descriptions thereof, make a record of their claim to the land, pending further action by the Department.

I have further to report that the record in this case is full and complete and it is believed the applicants could

Secretary 17

add nothing material thereto at this time, and that it would work an unjustifiable hardship upon them to notify them now to appear and give further testimony in this case and force upon them the expense of a hearing at this office.

I have not, therefore, forwarded the notices referred to in Departmental letter of March 15, 1909 and Indian Office letter of April 9, 1909, but will await specific instructions from the Department as to its wishes in the matter in accordance with my request of April 14, 1909, in the Mattie Shackley case.

If it is the desire of the Department that notices be forwarded in this case, however, this office will proceed to notify the applicants thereof immediately upon receipt of advice from the Department and will make supplemental report after their replies have been received.

The petition inclosed with Indian Office letter of April 9, 1909, is herewith returned.

Respectfully,

Through the Commissioner
of Indian Affairs.

Commissioner.

1-12903

Land
31790-1909.
J.S.D.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington.

Jun. 25, 1909

Enrollment case of
Wm. B. Brown et al.

The Commissioner

to the Five Civilized Tribes,
Winkles, Oklahoma.

Sir:

Referring to your report of April 20, 1909, relative to the consolidated Choctaw enrollment case of William B. Brown et al., you are advised, that on June 15, 1909, the Department held that the case mentioned was no analogous to that of John E. Golashy, and did not come within the principles announced by the Supreme Court of the United States in that case, (211 U. S. 249).

The Department, therefore, declined to take any action looking to the enrollment of any of the applicants in the consolidated case of William B. Brown et al.

A copy of approved Office letter of May 17, 1909, is inclosed for your further information.

You are requested to notify the parties in interest.

Very respectfully,

J. H. Dorton,
Acting Chief Clerk.

WFB-16
8838

D-7339

Land
31790-1909
J E D

DEPARTMENT OF THE INTERIOR
OFFICE OF INDIAN AFFAIRS,
Washington.

G.R.
J.W.
J.P.Jr.
W.R.L.

Enrollment case of
William B. Brown et al.

May 17, 1909.

The Honorable,

The Secretary of the Interior.

Sir:

Referring to Department letter of March 1, 1909, there is transmitted herewith a report dated April 20, 1909, from the Commissioner to the Five Civilized Tribes, relative to the enrollment case of William B. Brown et al. The history of the claim is set out fully in the reports enclosed.

The record shows, among other things, that on August 13, 1906, the Commissioner to the Five Civilized Tribes rendered a decision that Nancy A. Brown, Bettie McCarty, Mary Ethel McCarty, William W. Brown, Sarah Johnston, Becky Brown, Mary Johnston, Mamie (or Winnie) Hudson, Alice Brown, George Brown, Susie Brown, William Erman Johnston, Minnie Gertrude Brown, Henry Hiten Brown, Fannie G. Brown, Caswell M. Brown, Maudie Brown, Willie Brown, Elbert Knightington Brown, Polly A. Peck, Florence Peck, Oscar Peck, Benjamin Peck, Andrew Peck, Otis Dewey Peck, Virgie Peck, George G. Brown, Willie Emma Brown, James B. Nichols, Della May Scott, Nancy V. Nichols, John W. B. Nichols, Louis Herman Nichols, Golda Ula Nichols, Orin M. Nichols, James W. Nichols, Maggie M. Nichols, Nettie Myrtle Nichols and Lenie A. Nichols should be enrolled as citizens by blood and William B. Brown, Nancy Brown, Eli W. Brown,

Amanda Brown, Sarah Brown, Nancy C. Nichols, Bessie Nichols, Amanda W. Nichols and Osa Nichols as citizens by intermarriage of the Choctaw Nation under the provisions of the Acts of Congress approved June 28, 1898 (30 Stat. L. 495) and July 1, 1902 (32 Stat., L. 641).

The applications for the enrollment of William A. McCarty, Ollie McCarty, Oscar Lee Johnston, Willie Clarence Brown, Roy Lester Johnston, Edna Arvel Johnston, Teddy Golden Johnston, Rubie Dill Brown, Annie Jewell Brown, Prebble Peck, Cassie Brown, Goldie Brown, Nema May Scott, Lita Lois Scott, Sylvie Jewel Nichols and Cera Lee Nichols were also granted under the provisions of the Act of Congress approved April 26, 1906 (34 Stat. L. 137).

The application for the enrollment of Andrew J. Peck as a citizen by intermarriage was denied and the application for the enrollment of Daphne Myrtle Nichols as a citizen by blood of the Choctaw Nation was dismissed.

It appears that on August 14, 1906, the record in the case, together with the decision, was forwarded by the Commissioner to the Five Civilized Tribes, and that on February 7, 1907, he transmitted to the Department schedules of citizens of the Choctaw Nation by blood and by marriages, containing the names of persons who were favorably passed upon by him in his decision of August 13, 1906, in this case. It appears also that on February 23, 1907, the Commissioner, referring to Department letter of February 23, 1907, invited

L. 31790-3

the Department's attention to the above-mentioned schedules, and to the Chectaw enrollment case of William B. Brown, et al, and recommended, in view of the opinion of the Attorney General dated February 19, 1907, in the Loula West and other cases, that his decision of August 13, 1906, be not approved, and that the schedules referred to be disapproved.

On March 1, 1907, the Department reversed the decision of the Commissioner so far as it was favorable to the applicants, and disapproved the schedules containing their names.

The Commissioner to the Five Civilized Tribes reports further that his office has no record of any favorable decision of the Department as to the persons included in this case.

It appears also that their names have never been placed upon any roll or schedule of citizens of the Chectaw Nation prepared by the Commissioner to the Five Civilized Tribes and approved by the Department.

The Office concurs in the view of the Commissioner to the Five Civilized Tribes that as the record in the case is a complete one, the applicants could add nothing material thereto at this time, and to have them appear at his office to give further testimony would only make additional expense for them and work a hardship without any benefits accruing therefrom.

On April 9, 1909, the Office requested the Commissioner to the Five Civilized Tribes to take no steps pending the preparation of his report concerning the enrollment case of William B. Brown, et al toward the issuance of a patent to any adverse party in interest to the lands occupied by the applicants in the above mentioned case. The Commissioner was also

L-31790-09

requested to instruct the United States Indian Agent, at Union Agency, to suspend action, if any was contemplated, toward dispossessing the applicants of the lands occupied by them until further advised by the Department.

The Commissioner reports that no formal allotments were made to the persons included in the above case, but that applications were made in their behalf for certain lands which were involved in Chickasaw contest cases. The contests in behalf of these claimants were dismissed by the Commissioner to the Five Civilized Tribes, and on October 12, 1907, the Office held that the action of the Commissioner was proper, and recommended that he be advised that all applications for allotments in behalf of these persons should be denied.

This recommendation was approved by the Department on October 14, 1907. It appears from the report of the Commissioner to the Five Civilized Tribes that the lands in contest were awarded to the contestees and patents therefor were recorded and delivered to them. Title having passed to the contestees, the Department is now without authority to place or permit the applicants in the William E. Brown case to remain in possession of the lands covered by the patents issued to the contestees, even in the event of the Department rendering a favorable decision relative to their enrollment.

The Commissioner reports that his office has no record of the applicants in the case mentioned holding or claiming possession of any other lands in the Choctaw or Chickasaw

L-31790--3

Nations, but says that if they are in occupancy of such other lands his office will, upon receipt of a description thereof, make a record of the claims pending further action by the Department.

The Office is of the opinion that the case of William B. Brown, et al., is not analogous to that of John E. Goldsby, and that it does not come within the principles announced by the Supreme Court of the United States in its decision of November 30, 1908, in that case (211 U. S. 249).

It is therefore recommended that the Department take no action looking to the enrollment of any of the applicants included in the consolidated case of William B. Brown et al.

The record in the case, and other papers pertaining thereto, are transmitted herewith for your further information.

Very respectfully,

R. G. Valentine,

Acting Commissioner.

RHE 11

891

WGP June 15, 1909 JWM

Approved

Frank Pierce,

First Assistant Secretary. PUC.

Muskogee, Oklahoma, June 29, 1909.

George G. Brown,
Comanche, Oklahoma.

Sir:

You are hereby notified that on June 15, 1909, the Secretary of the Interior held that the Choctaw enrollment case of William B. Brown et al., with which your case was consolidated, was not analogous to that of John E. Goldsby (211 U. S. 249) and declined to take any action looking to the enrollment of the applicants therein under the opinion of the Supreme Court of the United States of November 30, 1908, in said Goldsby case.

Respectfully,

VHA-EB.

Commissioner.

Refer in reply to
the following:

Land-
Population
24078-1910
J H D

B-89161

Address only the
Commissioner of Indian
Affairs

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,

Enrollment claim of WASHINGTON.
William B. Brown, et al.

Mar 29 1910

The Commissioner
to the Five Civilized Tribes,
Washagee, Oklahoma.

Sir:

On November 26, 1909, W. E. Field, attorney at law,
Washington, D. C., filed a brief in support of a motion for a
rehearing and review in the consolidated Choctaw enrollment case
of William B. Brown, et al.

There is transmitted herewith for your information a
copy of Department letter of March 22, 1910, denying said motion.
There is also inclosed a copy of Office letter of December 4,
1909, in said case.

Very respectfully,

John Francis Jr.
Acting Chief Land Division.

KB-24
8826

C.G.A.

Copy

J.W.H.

DEPARTMENT OF THE INTERIOR.
WASHINGTON.

Office of Indian
Affairs.
Received.
Mar 23, 1910
File 24078

D-7359.

Commissioner of Indian Affairs.

Sir:

A petition has been filed for a rehearing and review in the matter of the Choctaw enrollment case of William B. Brown et al., which was the subject of your letter of May 17, 1909, approved June 15, 1909, recommending that the Department take no action looking to the enrollment of any of the applicants included in said case.

It is urged that the applicants were found to be entitled to enrollment by the Secretary of the Interior and that therefore they should be accorded the status of recognized citizens of the Choctaw nation. It appears, however, from the records of the Department that the decision by which they were adjudged to be entitled to enrollment, and upon which they apparently rely, was rendered by the Commissioner to the Five Civilized Tribes; that said decision was not affirmed by the Secretary of the Interior, and that the names of the applicants do not appear upon the final rolls approved by the Secretary.

Premises considered, the petition is hereby denied and you are requested to advise the parties in interest as

Accordingly. The petition and the letter received with it
are inclosed for the files of your office.

This letter will be regarded as a substitute for
Departmental letter of March 8, 1928, relating to said case.

Very respectfully,

(Signed) Frank Pierce
First Assistant Secretary.

Land
Population
1880-1909
J E B

Enrollment case
of William B. Brown,
et al.

Dec, 4, 1909

W. S. Field, Esq.

Attorney at Law,

No. 926 Colorado Building,

Washington, D. C.

Sir:

Referring to your letter of November 26, 1909 and to the brief filed therewith, relative to the consolidated Choctaw enrollment case of William B. Brown, et al., you are advised that the statements contained in your brief do not accord with the facts in the case as shown by the record.

On March 1, 1907 the Department rendered its decision denying the applicants enrollment and disapproved the schedules containing their names. It does not appear that their names were ever on any roll or schedule of citizens of the Choctaw Nation prepared by the Commission or the Commissioner to the Five Civilized Tribes and approved by the Department or that the Department ever instructed the Commission or the Commissioner to place the names of the applicants on the roll for approval; neither does the record show that the Department ever rendered any decision favorable to their enrollment.

L-95302-6

On May 17, 1909 the Department held that the case of William B. Brown, et al., was not analogous to that of John H. Galatzky and did not come within the principles announced by the Supreme Court of the United States in its decision of November 30, 1908 (211 U. S., 249) in that case.

The Department, therefore, declined to take any action looking to the enrollment of the applicant included in the consolidated case of William B. Brown, et al.

In view of the record in the case and of the Department's action therein, the Office can see no reason for recommending legislation in behalf of the applicants in said case.

Very respectfully,

(Signed) F. H. Abbott,

Assistant Commissioner.

HAS-30
6392

Choctaw 6025
James B. Nichols

6025

Trans. from Choccard 5100 See
Petition C 34 Duplicate record bound

8-13-06 granted

3-1-07 decision of Commissioners reversed
and schedules containing names of these
applicants disapproved

3-1-09 Dept requests report

4-20-09 Report To Dept

6-15-09 Dept holds case is not analogous
To Goldsby Case and declines To Take action
looking To enrollment of applicants

6-29-09 Parties notified

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of
William B. Brown, et al., as citizens of the Choctaw Nation, con-
solidating the applications of

William B. Brown, et al.	7-5096,
William H. Brown, et al.	7-5060,
Eli W. Brown, et al.	7-D-432,
Caswell M. Brown, et al.	7-5066
Andrew J. Peck, et al.	7-5062
George G. Brown, et al.	7-5095
James B. Nichols, et al.	7-5100,
John W. B. Nichols, et al.	7-5097
Orin M. Nichols, et al.	7-5061,
Osa Nichols, et al.	7-D-509.

DECISION.

It appears from the census card records in this case that on September 22, 1898, application was made to the Commission to the Five Civilized Tribes for the enrollment of William B. Brown (sixty-one years of age), as a citizen by intermarriage of the Choctaw Nation, and for the enrollment of his two children, Nancy A. Brown (twenty-three years of age) and Bettie Brown, now McCarty (nineteen years of age), as citizens by blood of the said nation; on September 22, 1898, for the enrollment of William H. Brown (thirty-nine years of age), and his seven minor children, Sarah Brown, now Johnston (eighteen years of age), Becky Brown (sixteen years of age), Mary Brown, now Johnston (thirteen years of age), Mamie (or Minnie)

Brown, now Hudson (eleven years of age), Alice Brown (eight years of age), George Brown (five years of age) and Susie Brown (one year of age), as citizens by blood of the Choctaw Nation, and for the enrollment of Nancy Brown (thirty-six years of age) as a citizen by intermarriage of said nation; on September 5, 1899, for the enrollment of Eli W. Brown (twenty-eight years of age) as a citizen by intermarriage of the Choctaw Nation; on September 22, 1898, for the enrollment of Caswell M. Brown (thirty-four years of age), and his two minor children, Maudie (ten years of age) and Willie Brown (six years of age), as citizens by blood of the Choctaw Nation, and on October 18, 1898, for the enrollment of his wife, Amanda Brown (thirty-one years of age), as a citizen by intermarriage of said nation; on September 22, 1898, for the enrollment of Andrew J. Peck (thirty-two years of age) as a citizen by intermarriage of the Choctaw Nation, and for the enrollment of his wife, Polly A. Peck (thirty years of age), and his five minor children, Florence (nine years of age), Oscar (seven years of age), Benjamin G. (five years of age), Andrew (three years of age), and Otis Dewey Peck (two months of age), as citizens by blood of said nation; on September 22, 1898, for the enrollment of George G. Brown (twenty-six years of age), and his minor daughter, Willie Emma Brown (three years of age), as citizens by blood of the Choctaw Nation, and for the enrollment of his wife, Sarah Brown (twenty-one years of age), as a citizen by intermarriage of said nation; on September 22, 1898, for the enrollment of James B. Nichols (forty-eight years of age), and his two minor children, Della May Nichols, now Scott (fourteen years of age), and Nancy V. Nichols (seven years of age), as citizens by blood of the Choctaw Nation, and for the enrollment of his wife, Nancy C. Nichols, (forty-two years of age), as a

citizens by intermarriage of said nation; on September 22, 1898 for the enrollment of John W. B. Nichols (twenty-four years of age) as a citizen by blood of the Choctaw Nation, and for the enrollment of his wife, Bessie Nichols (eighteen years of age), as a citizen by intermarriage of said nation; on September 22, 1898, for the enrollment of Orin M. Nichols (forty-four years of age), and his four minor children, James W. (eighteen years of age), Maggie M. (twelve years of age), Nettie Myrtle (eight years of age), and Lonie A. Nichols (four years of age), as citizens by blood of the Choctaw Nation, and for the enrollment of his wife, Amanda M. Nichols (thirty-eight years of age), as a citizen by intermarriage of said nation; and on September 25, 1899, for the enrollment of Osa Nichols (seventeen years of age) as a citizen by intermarriage of the Choctaw Nation.

Applications were subsequently made for the enrollment of the following minor applicants as citizens by blood of the Choctaw Nation: On January 20, 1902, for the enrollment of Mary Ethel McCarty (born December 8, 1901); on May 31, 1906, for the enrollment of William A. McCarty (born April 21, 1904) and Ollie McCarty (born February 14, 1906); on October 13, 1900, for the enrollment of William Erman Johnston (born June 30, 1900); on October 19, 1900, for the enrollment of Minnie Gertrude Brown (born August 13, 1900); on May 16, 1901, for the enrollment of Fannie C. Brown (born February 11, 1901); on April 29, 1905, for the enrollment of Oscar Lee Johnston (born November 14, 1902); on April 29, 1905, for the enrollment of Willie Clarence Brown (born April 8, 1903); on July 12, 1902, for the enrollment

-4-

Henry Niten Brown, (born May 21, 1902); on April 29, 1905, for the enrollment of Ray Lester Johnston (born October 28, 1905); on May 21, 1906, for the enrollment of Edna Arvel Johnston (born March 21, 1905); on April 14, 1906, for the enrollment of Ebbie Dill Brown (born February 12, 1904); in 1899, for the enrollment of Elbert Knightington Brown (born October 8, 1899); on April 7, 1906, for the enrollment of Annie Jewell Brown (born December 2, 1902); on December 10, 1901, for the enrollment of Virgie Peck (born October 11, 1901); on April 8, 1906, for the enrollment of Prebble Peck (born February 19, 1904); on May 21, 1906, for the enrollment of Cassie Brown (born May 30, 1900) and Goldie Brown (born September 5, 1904); on April 17, 1905, for the enrollment of Hema May Scott (born May 15, 1903) and Lita Lois Scott (born February 1, 1906); on September 1, 1900, for the enrollment of Louie Herman Nichols (born August 19, 1900); on December 27, 1901, for the enrollment of Gelda Ula Nichols (born September 15, 1901); on April 1, 1905, for the enrollment of Sylvie Jewel Nichols (born August 28, 1903); on April 14, 1906, for the enrollment of Cora Lee Nichols (born November 6, 1902); on April 6, 1901, for the enrollment of Daphne Myrtle Nichols (born February 20, 1901; and on May 21, 1906, for the enrollment of Teddy Golden Johnston (born June 15, 1905).

It appears from the records of the Commission to the Five Civilized Tribes that on September 9, 1894, in the case entitled "Nancy Cooper, et al. vs. Chectaw Nation" (1894 Chectaw Citizenship Docket, Case No. 1428), original application was made to said Commission, under the provisions of the Act of Congress approved June 10, 1894 (28 Stat., 321), for admission to

citizenship in the Choctaw Nation of the applicants, Nancy A. Brown (as Nancy Alice Brown), Bettie McCarty (as Rebecca Elizabeth Brown), William H. Brown (as William Hiten Brown), Sarah Johnston (as Sarah Elizabeth Brown), Becky Brown (as Rebecca Catherine Brown), Mary Brown (as Mary Arrillie Brown), Mamie (or Minnie) Hudson (as Minnie Ann Brown), Alice Brown, George Brown (as George Montgomery Brown), Caswell H. Brown, Maudie Brown (as Mandy E. Brown), Willie Brown (as William G. Brown), Polly A. Peck (as Polly Ann Peck), Florence Peck (as Minnie E. Peck), Oscar Peck (as Oscar S. Peck), Benjamin Peck (as Benjamin G. Peck), Andrew Peck, George G. Brown, William H. Brown, James E. Nichols (as James Bruton Nichols), Della May Scott (as Mary Della May Nichols), Nancy V. (Mamie Vilma Nichols), John W. H. Nichols (as John William Bethuel Nichols), Orin H. Nichols (as Orrin Haybery Nichols), James W. Nichols (as James Willis Nichols), Maggie M. Nichols (as Maggie May Nichols), Nettie Myrtle Nichols, Lonie A. Nichols (as Lena Alta Nichols), as citizens by blood of said nation, and for the admission of William B. Brown, Nancy J. Brown (as Nancy Jane Brown), Amanda Brown, Andrew J. Peck (as A. J. Peck), Sarah Brown, Nancy C. Nichols (as Nancy Caroline Nichols), and Amanda M. Nichols (as Amanda Melvina Nichols), as citizens by intermarriage of said nation; and that on December 8, 1896, said Commission rendered its decision therein, denying the application of the above named applicants for enrollment as citizens of the Choctaw Nation.

From the decision of said Commission an appeal was taken to the United States Court for the Southern District of Indian Territory, which court on December 27, 1897, in the case

entitled "Nancy J. Cooper, et al. vs. Choctaw Nation" (Southern District Citizenship Case No. 96), admitted Nancy A. Brown (as Nancy Alice Brown), Bettie McCarty (as Bettie Brown), Sarah Johnson (as Sarah Brown), Becky Brown, Mary Brown, Mamie (or Minnie) Hudson (as Mamie Brown), Alice Brown, George Brown, Susie Brown, Caswell M. Brown (as Caswell Marion Brown), Maudie Brown, Willie Brown, Polly A. Peck (as Polly Ann Peck), Florence Peck, Oscar Peck, Benjamin Peck (as Benjamin Grant Peck), Andrew Peck, George G. Brown, Willie Emma Brown, James B. Nichols (as James Bruton Nichols), Della May Scott (as Dell May Nichols), Nancy V. Nichols (as Nancy Velmor Nichols), Orin M. Nichols (as Orin Mayberry Nichols), James W. Nichols (as James Willis Nichols), Maggie M. Nichols (as Maggie May Nichols), Nettie Myrtle Nichols (as Myrtle Nichols), and Lenie A. Nichols (as Lenie Alta Nichols), as citizens by blood of the Choctaw Nation, and William B. Brown (as William Bluford Brown), Andrew J. Peck (as Andrew Jackson Peck), and Nancy C. Nichols (as Nancy Caroline Nichols), as citizens by intermarriage of said nation, and denied the applications for the admission of Nancy J. Brown (as Nancy Jane Brown), Sarah Brown, and Amanda M. Nichols (as Amanda Melvina Nichols), as citizens by intermarriage of the Choctaw Nation. The name of the applicant, Susie Brown, was interpolated in the judgment of said court, she not having been an applicant before the Commission to the Five Civilized Tribes in 1896.

On March 18, 1898, said case again came before said court upon a motion of the plaintiff's attorneys to correct the judgment of said court rendered December 22, 1897, and the court, thereupon, ordered said judgment corrected so as to admit the

applicants, Nancy J. Brown (as Nancy Jane Brown), Sarah Brown, Amanda M. Nichols (as Amanda Melvina Nichols), as citizens by intermarriage of the Choctaw Nation.

On September 23, 1898, said court rendered a supplemental judgment admitting Amanda Brown as a citizen by intermarriage of the Choctaw Nation.

On January 17, 1900, this cause again came before said court upon a motion of the defendant to strike out of the judgment theretofore rendered, certain names improperly admitted to citizenship, and said court being fully advised, ordered that the following names, Susie Brown, Andrew J. Peck as (Andrew Jackson Peck), Bettie McCarty (as Bettie Brown), and Becky Brown, be stricken from said former judgment.

Subsequently, upon the representation of the plaintiffs' attorneys that certain persons who were original applicants were by oversight or mistake left out of the original judgment theretofore rendered, the court ordered that the applicants, Nancy J. Brown (as Nancy Jane Brown,), Sarah Brown, Amanda Brown, Amanda M. Nichols and Rebecca E. Brown be admitted to citizenship in the Choctaw Nation.

It further appears from the records of said Commission that on December 17, 1902, the Choctaw and Chickasaw Citizenship Court, created under the provisions of the Act of Congress approved July 1, 1902 (32 Stats., 641), "set aside, annulled, vacated and held for naught" the aforesaid judgment of the United States Court for the Southern District of Indian Territory.

Thereafter, the record in the above case was certified to the Choctaw and Chickasaw Citizenship Court, for a trial de novo, which court, on November 29, 1904, in the case entitled, "William

Heighten Brown, et al. vs. Choctaw and Chickasaw Nations" (Choctaw Chickasaw Citizenship Court Case No. 73, Tishomingo Docket), "ordered, adjudged and decreed that the petition of the plaintiffs, William Heighten Brown (or William Knighten Brown), Caswell Marion Brown, Polly Ann Peck (nee Brown), George R. Brown (or George G. Brown), Honey Ellis Brown (or Honey Alice Brown), Sarah Brown, Mary Brown, Monie Brown (or Mamie Brown), Alice Brown, George Brown, Mondie Brown (or Maudie Brown), Willie Brown, Florence Peck, Oscar Peck, Benjamin Grant Peck, Andrew Peck, William Emma Brown (or Willie Emma Brown), James Burton Nichols, (or James Bruton Nichols), Oney Mayberry Nichols (or Orin Mayberry Nichols), John William Beffle Nichols, Della May Nichols, Nancy Velmer Nichols, James Willie Nichols, Maggie May Nichols, Myrtle Nichols, Lenie Alta Nichols, William Duford Brown, Nancy Caroline Nichols, Rebecca E. Brown (or Becky Brown), Rebecca G. Brown (or Rebecca Brown), Amanda Melvina Nichols, Amanda Brown, Nancy J. Brown (or Nancy Jane Brown), Sarah Brown, be denied, and that they be declared not citizens of the Choctaw Nation, and not entitled to enrollment as such citizens, and not entitled to any rights whatever flowing therefrom."

On December 12, 1904, orders were entered of record by the Commission to the Five Civilized Tribes dismissing the applications for the enrollment of Mary E. McCarty, William Erman Johnston, Minnie Gertrude Brown, Henry Hiten Brown, Elbert Knightington Brown, Otis Dewey Peck, Virgie Peck, Louie Herman Nichols and Golda Ula Nichols as citizens by blood of the Choctaw Nation, and on March 18, 1906, an order was entered of record dismissing the application for the enrollment of Fannie G. Brown as a citizen by

blood of said nation. All of said applicants were dismissed for the reason that their parents through whom they claim their rights to enrollment as citizens by blood of the Choctaw Nation, had been denied by a decree of the Choctaw and Chickasaw Citizenship Court.

On December 12, 1904, orders were entered of record by the Commission to the Five Civilized Tribes dismissing the applications for the enrollment of Eli W. Brown, Bessie Nichols and Osa Nichols as citizens by intermarriage of the Choctaw Nation, for the reason that the persons through whom they claim their rights had also been denied by a decree of the Choctaw and Chickasaw Citizenship Court.

On March 30, 1905, the Commission to the Five Civilized Tribes denied the application for the enrollment of Susie Brown as a citizen by blood of the Choctaw Nation, and on April 6, 1906 (I.T.D. 3810-1906), the Department set aside said decision of the Commission and returned the record to this office for a full investigation upon its merits.

Under the regulations adopted by the Commissioner to the Five Civilized Tribes of January 2, 1906, there was filed on February 6, 1906, by Cruce, Cruce and Bleakmore, of Ardmore, Indian Territory, attorneys for the petitioners, petitions praying that William B. Brown, Nancy A. Brown, Minnie Hudson, Sarah Johnston, Oscar Lee Johnston, William Erman Johnston, Rebecca Brown, Minnie Gertrude Brown, Henry Eiten Brown, Rubie Bill Brown, Eli W. Brown, Mary A. Johnston, Roy Lester Johnston, Bena A. Johnston, Rebecca McCarty, William A. McCarty, Mary E. McCarty, William F. Brown, Nancy Jane Brown, George Brown, Alice Brown, Susie Brown, Cletus Brown, Clarence Brown, A. J. Peck, Polly Ann Peck, Minnie Peck, Oscar Sherman Peck, Benjamin Grant Peck, Andrew Peck, O. D. Peck,

Virgie Peck, Prebble Peck, C. H. Brown, Amanda Brown, Mandy Brown, William Brown, Elbert K. Brown, Annie Jewel Brown, George G. Brown, Sarah Brown, Willie Emma Brown, Cassie Brown, Goldie Brown, J. B. Nichols, Nancy Nichols, Belma Nichols, John W. B. Nichols, Beattie Deaton Nichols, Louie Herman Nichols, Golda Lula Nichols, Silva Jewel Nichols, Della May Scott, Nema Scott, Orin M. Nichols, Amanda Nichols, Myrtle Nichols, Lonie Nichols, James W. Nichols, Osa Nichols, Cora Lee Nichols and Maggie Angel be enrolled as citizens of the Choctaw Nation.

All of the above petitioners, with the exception of Ollie McGarty, Lita Lois Scott, Daphne Myrtle Nichols and Teddy Golden Johnston, are identical with the applicants for whom application has been made for enrollment as citizens of the Choctaw Nation.

On April 16, 1906, the principal petitioners, their attorneys, Cruce, Cruce & Bleakmore, of Ardmore, Indian Territory, and Messrs. Mansfield, McMurray & Cornish, attorneys for the Choctaw and Chickasaw Nations, of South McAlester, Indian Territory, were advised that the Commissioner to the Five Civilized Tribes would at his office at Muskogee, Indian Territory, on Monday, May 14, 1906, at nine o'clock A.M., hear such testimony and receive such other evidence as might be submitted by the petitioners in support of their applications for enrollment as citizens of the Choctaw Nation, and by the attorneys for the Choctaw and Chickasaw Nations.

On April 16, 1906, William M. Brown, father of Susie Brown, Cruce, Cruce & Bleakmore, attorneys for said Susie Brown, and Mansfield, McMurray & Cornish, attorneys for the Choctaw and Chickasaw Nations, were advised that on April 6, 1906, the Department set aside the decision rendered by the Commission on March 20, 1906, and returned the record in said case with in-

instructions that a full investigation be made of the rights of said Susie Brown to enrollment as a citizen by blood of the Choctaw Nation, that the testimony of creditable witnesses be required showing her Choctaw blood, if any, the time and place of her birth, her various residences, her ancestors, the privileges, if any, enjoyed by her and her parents as citizens of the Choctaw Nation, and notified that the Commissioner to the Five Civilized Tribes would at his office at Muskogee, Indian Territory, on Monday, May 14, 1906, at nine o'clock A.M., hear such testimony and receive such other evidence as might be submitted in support of said application, investigation to be conducted along the lines indicated by Department letter above referred to.

On motion of Attorney for applicants, the hearing in the matter of the above application was continued on April 26, 1906, to May 21, 1906.

On May 21, 1906, proceedings were had in the matter of said applications in pursuance to the notices above mentioned.

It appears from the record herein that the applicants, William N. Brown, Caswell M. Brown, Polly Ann Peck, George G. Brown, Nancy A. Brown and Bettie McCarty, are the children of the principal applicant, William B. Brown, and Rebecca Cooper (now deceased), who is alleged to have been a Choctaw Indian, and the daughter of William Cooper, who was the son of Johnny Cooper, an alleged Choctaw Indian, who resided near the line between the states of Tennessee and Mississippi; that Sarah Johnston, Becky Brown, Mary Johnston, Mamie (or Minnie) Hudson, Alice Brown, George Brown, Susie Brown, Fannie C. Brown and Willie Clarence Brown, are the children of the applicants

William H. Brown and Nancy J. Brown, (the latter an applicant for intermarried rights); that William Erman, Oscar Lee and Teddy Golden Johnston are the children of the applicant, Sarah Johnston, and J. A. Johnston, a non-citizen; that Minnie Gertrude, Henry Witen and Pubic Dill Brown are the children of the applicants, Becky Brown and Eli W. Brown, (the latter an applicant for intermarried rights); that Roy Lester and Meta Arvel Johnston are the children of the applicant, Mary Johnston, and Jacob J. Johnston, a non-citizen; that Maudie, Willie, Elbert Knightington, and Annie Jewell Brown are the children of the applicant, Caswell V. Brown and Amanda Brown (the latter an applicant for intermarried rights); that Florence, Oscar, Benjamin, Andrew, Otis Dewey Virgie and Probble Peck are the children of the applicant, Pelly Ann Peck and Andrew J. Peck (the latter an applicant for intermarried rights); that Willie Emma, Cassie and Goldie Brown are the children of the applicants, George G. Brown and Sarah Brown (the latter an applicant for intermarried rights); that Mary Ethel, William A. and Ollie McCarty are the children of the applicant, Bettie McCarty, and Oliver McCarty, a non-citizen; that James B. Nichols and Orin M. Nichols are the children of Wilson Nichols (now deceased), a non-citizen, and Delitha Cooper (now deceased), who is alleged to have been a Choctaw Indian and the daughter of John Cooper, above referred to; that John W. B. Nichols, Della May Scott and Nancy V. Nichols are the children of the applicant, James B. Nichols and Nancy C. Nichols (the latter an applicant for intermarried rights); that Louis Herman, Golda Ull and Sylvie Jewel Nichols are the children of the applicant, John W. B. Nichols and Bessie Nichols (the latter an applicant for

intermarried rights); that Nema May and Lita Lois Scott are the children of the applicant, Della May Scott, and Burris Scott, a non-citizen; that James W., Maggie M., Nettie Myrtle and Lonis A. Nichols are the children of the applicant, Orin M. Nichols and Amanda M. Nichols (the latter an applicant for intermarried rights); and that the applicants, Cora Lee and Daphne Myrtle Nichols, are the children of the applicants, James W. Nichols and Osa Nichols (the latter an applicant for intermarried rights).

The applicant, William B. Brown, claims his right to citizenship in the Choctaw Nation by the virtue of his marriage on February 10, 1858, under the laws of the state of Arkansas, to Becky Cooper (now deceased); that Nancy Brown claims her right to enrollment as a citizen by intermarriage by virtue of her marriage to the applicant, William N. Brown, on September 21, 1879; that Eli W. Brown claims his right to enrollment as a citizen by intermarriage by virtue of his marriage on August 21, 1899, under the laws, customs and usages of the Chickasaw Nation to the applicant, Becky Brown, both of said applicants being at said time residents in good faith of the Chickasaw Nation; that Amanda Brown claims her right to enrollment as a citizen by intermarriage by virtue of her marriage on December 2, 1886, to the applicant, Caswell K. Brown; that Andrew J. Peck claims his right to enrollment as a citizen by intermarriage by virtue of his marriage on December 15, 1887, under the laws of the state of Arkansas to the applicant, Polly A. Peck; that Sarah Brown claims her right to enrollment as a citizen by intermarriage by virtue of her marriage to George G. Brown on June 9, 1895; that the applicant, Nancy C. Nichols claims her right to enrollment as a citizen by intermarriage by virtue of her marriage to the applicant, James B.

Nichols, on March 9, 1873; that the applicant, Bessie Nichols, claims her right to enrollment as a citizen by intermarriage by virtue of her marriage on September 11, 1898, to the applicant, John W. B. Nichols; that Amanda M. Nichols claims her right to enrollment as a citizen by intermarriage by virtue of her marriage on October 20, 1878, to the applicant, Orin M. Nichols; and that Osa Nichols claims her right to enrollment as a citizen by intermarriage by virtue of her marriage on April 27, 1899, to the applicant, James W. Nichols.

It does not appear from the record herein or from the records in the possession of this office that the applicant, Andrew J. Peck, has ever been admitted to Choctaw citizenship by a duly constituted court or committee of the Choctaw Nation, nor has said applicant ever been married to Polly Ann Peck, through whom he claims his intermarried rights, by virtue of a license issued by the tribal authorities of either the Choctaw or Chickasaw Nation.

At the hearing before the Commissioner to the Five Civilized Tribes on May 21, 1906, William N. Brown, Caswell H. Brown, James B. Nichols and Orin M. Nichols testified that in 1894, they, together with the other applicants herein who were living at said time, petitioned the Choctaw Council for admission as citizens of the Choctaw Nation; that no action having been taken thereon, they, in 1896, appeared before the Choctaw Census Commission and made application to be enrolled upon the 1896 Choctaw Census Roll; and that some time in January, 1897, they received a certificate from the Secretary of the Choctaw Revisory Board, wherein it appeared that they had been enrolled upon the 1896 Choctaw Census Roll. Said applicants further testified

that prior to 1896 they had been permitted to issue permits for their tenants, held lands, and were not subject to any tribal tax which was due from all non-citizens who were engaged in the mercantile business.

On June 4, 1906, John H. Gamblin testified that he was acquainted with the applicants herein, and that in October 1894, he having business before the Choctaw Council, presented on behalf of the applicants herein who were living at that time, a petition praying that they be admitted as citizens of the Choctaw Nation, and that he does not know what action, if any, was ever taken thereon.

Upon an examination of the tribal rolls of the Choctaw Nation in the possession of this office, it appears that the applicants, William B. Brown, William N. Brown, Nancy J. Brown, Caswell M. Brown, Amanda Brown, Polly Ann Peck, Andrew J. Peck, George G. Brown, Sarah Brown, Nancy A. Brown, Bettie McCarty, Sarah Johnston, Becky Brown, Mary Johnston, Mamie (or Minnie) Hudson, Alice Brown, George Brown, Susie Brown, Maudie Brown, Willie Brown, Florence Peck, Oscar Peck, Benjamin Peck, Andrew Peck, James B. Nichols, Nancy C. Nichols, Orin M. Nichols, Amanda M. Nichols, John W. B. Nichols, Della May Scott, Nancy V. Nichols, James W. Nichols, Maggie M. Nichols, Nettie Myrtle Nichols and Lonie A. Nichols, are identified upon the 1896 Choctaw Census Rolls opposite Numbers 1688, 1691, 1692, 1701, 1702, 10513, 10517, 1705, 1706, 1699, 1690, 1693, 1694, 1695, 1696, 1697, 1698, 1699, 1703, 1704, 10519, 10520, 10521, 10522, 9803, 9804, 9812, 9813, 9809, 9810, 9811, 9814, 9815, 9816, and 9817, respectively.

It further appears from the record herein that all of

the applicants, that were living on June 28, 1898, were residents in good faith of the Indian Territory on said date.

The evidence in this case further shows that the applicant, Daphne Myrtle Nichols, died on June 27, 1901.

I am of the opinion that in accordance with the opinions of the Assistant Attorney General for the Department of the Interior of February 10, 1905 (I.T.D. 10383-1904), and December 8, 1905 (I.T.D. 3693-1905), in the case of Lula West, the action of the Commission to the Five Civilized Tribes, and the subsequent action of the United States Court for the Southern District of Indian Territory, and the Choctaw and Chickasaw Citizenship Court, upon the right of the applicants who applied to the Commission to the Five Civilized Tribes in 1896, with the exception of Andrew J. Peck, was without authority of law, and of no force and effect upon the status of said applicants as citizens of the Choctaw Nation.

I am further of the opinion that the orders of the Commission to the Five Civilized Tribes of December 12, 1904 and March 18, 1905, dismissing the applications for the enrollment of Mary E. McCarty, William Erman Johnston, Minnie Gertrude Brown, Fannie C. Brown, Henry Witen Brown, Elbert Knightington Brown, Otis Dewey Peck, Virgie Peck, Louis Herman Nichols and Golda Ula Nichols as citizens by blood of the Choctaw Nation, and Eli W. Brown, Bessie Nichols and Osa Nichols as citizens by intermarriage of the Choctaw Nation, should be rescinded.

I am further of the opinion that in accordance with the opinions of the Assistant Attorney General for the Department of the Interior of March 3, 1905 (I.T.D. 187-1905) and March 10,

1906 (I.T.D. 9969-1906), Nancy A. Brown, Bettie McCarty, Mary Ethel McCarty, William N. Brown, Sarah Johnston, Becky Brown, Mary Johnston, Mamie (or Minnie) Hudson, Alice Brown, George Brown, Susie Brown, William Erman Johnston, Minnie Gertrude Brown, Henry Niten Brown, Fannie C. Brown, Caswell M. Brown, Maudie Brown, Willie Brown, Elbert Knightington Brown, Polly A. Peck, Florence Peck, Oscar Peck, Benjamin Peck, Andrew Peck, Otis Dewey Peck, Virgie Peck, George G. Brown, Willie Emma Brown, James B. Nichols, Della May Scott, Nancy V. Nichols, John W. B. Nichols, Louie Herman Nichols, Golda Ula Nichols, Orin M. Nichols, James W. Nichols, Maggie W. Nichols, Mettie Myrtle Nichols and Lonie A. Nichols should be enrolled as citizens by blood of the Choctaw Nation, under the provisions of the Acts of Congress approved June 28, 1898 (30 Stats., 495), and July 1, 1902 (32 Stats., 641), and it is so ordered.

I am further of the opinion that William B. Brown, Nancy Brown, Eli W. Brown, Amanda Brown, Sarah Brown, Nancy C. Nichols, Bessie Nichols, Amanda M. Nichols and Osa Nichols should be enrolled as citizens by intermarriage of the Choctaw Nation, under the provisions of the Acts of Congress approved June 28, 1898 (30 Stats., 495) and July 1, 1902 (32 Stats., 641), and it is so ordered.

I am further of the opinion that the application made for the enrollment of Andrew J. Peck as a citizen by intermarriage of the Choctaw Nation should be denied, under the provisions of the Act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered.

I am further of the opinion that William A. McCarty, Ollie McCarty, Oscar Lee Johnston, Willie Clarence Brown, Roy

Lester Johnston, Edna Arvel Johnston, Teddy Golden Johnston, Rubie Dill Brown, Annie Jewell Brown, Prebble Peak, Cassie Brown, Goldie Brown, Nema May Scott, Lita Lois Scott, Sylvie Jewel Nichols and Cora Lee Nichols should be enrolled as citizens by blood of the Choctaw Nation, under the provisions of the Act of Congress approved April 26, 1906 (Public No. 129), and it is so ordered.

I am further of the opinion that the application made for the enrollment of Daphne Myrtle Nichols as a citizen by blood of the Choctaw Nation should be dismissed, and it is so ordered.

Thos Bixby,
COMMISSIONER.

Waskie, Indian Territory,

Aug. 13, 1906.

Muskogee, Indian Territory, August 13, 1906.

John W. B. Nichols,

Comanche, Indian Territory.

Dear Sir:

Inclosed herewith you will find a copy of the decision of the Commissioner to the Five Civilized Tribes, rendered August 13, 1906, granting the application for the enrollment of John W. B. Nichols, Louie Herman Nichols, Golda Ula Nichols and Sylvie Jewel Nichols as citizens by blood of the Choctaw Nation, and Bessie Nichols as a citizen by intermarriage of said Nation.

The decision, with the record of proceedings in the case, is this day transmitted to the Secretary of the Interior for review. The final decision of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

SIGNED James D. Gandy

Commissioner.

Registered.

MAH 10/13

7-5040

Muskogee, Indian Territory, August 13, 1906.

Cruce, Cruce & Bleakmore,
Attorneys at Law,
Ardmore, Indian Territory,
Gentlemen

Inclosed herewith you will find a copy of the decision of the Commissioner to the Five Civilized Tribes, rendered August 13, 1906, granting the application for the enrollment of Henry A. Brown, Nettie McCarty, Mary Ethel McCarty, William M. Brown, Sarah Johnston, Becky Brown, Mary Johnston, Mamie (or Minnie) Hudson, Alice Brown, George Brown, Bessie Brown, William Edwin Johnston, Minnie Gertrude Brown, Henry Elton Brown, Fannie C. Brown, Cassell M. Brown, Mamie Brown, Willie Brown, Elbert Knightington Brown, Folly A. Peck, Florence Peck, Oscar Peck, Benjamin Peck, Andrew Peck, Otis Dewey Peck, Virgie Peck, George G. Brown, Willie Ross Brown, James E. Nichols, Della May Scott, Nancy V. Nichols, John W. E. Nichols, Louis Herman Nichols, Golda Ula Nichols, Erin M. Nichols, James W. Nichols, Maggie M. Nichols, Nettie Myrtle Nichols, Louis A. Nichols, William A. McCarty, Ellie McCarty, Oscar Lee Johnston, Willie Clarence Brown, Ray Lester Johnston, Edna Arvel Johnston, Teddy Golden Johnston, Bessie Will Brown, Annie Jewell Brown, Fannie Peck,

4 2

Cassie Brown, Goldie Brown, Emma Mae Scott, Rita Lois Scott, Sylvia Jewel Nichols and Cora Lee Nichols, as citizens by blood, and for the enrollment of William E. Brown, Nancy Brown, Eli W. Brown, Amanda Brown, Sarah Brown, Nancy C. Nichols, Jessie Nichols, Amanda M. Nichols and Osa Nichols, as citizens by intermarriage, of the Choctaw Nation; denying the application for the enrollment of Andrew J. Peck, as a citizen by intermarriage, and dismissing the application for the enrollment of Daphne Myrtle Nichols as a citizen by blood of the Choctaw Nation.

The decision, with the record of proceedings in the case, is this day submitted to the Secretary of the Interior for review. The final decision of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

Registered,

Commissioner.

Incl. HAN 27/21

Muskogee, Indian Territory, August 13, 1906.

Mansfield, McMurray & Cornish,
Attorneys for Choctaw and Chickasaw Nations,
South McAlester, Indian Territory,

Gentlemen:

Inclosed herewith you will find a copy of the decision of the Commissioner to the Five Civilized Tribes, rendered August 13, 1906, granting the application for the enrollment of Nancy A. Brown, Bettie McCarty, Mary Ethel McCarty, William M. Brown, Sarah Johnston Becky Brown, Mary Johnston, Mamie (or Minnie) Hudson, Alice Brown, George Brown, Bessie Brown, William Erman Johnston, Minnie Gertrude Brown, Henry Miten Brown, Fannie C. Brown, Cassell M. Brown, Maudie Brown, Willie Brown, Elbert Knightington Brown, Polly A. Peck, Florence Peck, Oscar Peck, Benjamin Peck, Andrew Peck, Otis Dewey Peck, Virgie Peck, George G. Brown, Willie Emma Brown, James B. Nichols, Della May Scott, Nancy V. Nichols, John W. B. Nichols, Louie Herman Nichols, Golda Ula Nichols, Orin M. Nichols, James W. Nichols, Maggie M. Nichols, Nettie Myrtle Nichols, Lonie A. Nichols, William A. McCarty, Ollie McCarty, Oscar Lee Johnston, Willie Clarence Brown, Ray Lester Johnston, Edna Arvel Johnston, Teddy Golden Johnston, Rubie Dill Brown, Annie Jewell Brown, Prebble Peck,

Cassie Brown, Goldie Brown, Hema Ma. Scott, Lita Lois Scott, Sylvie Jewel Nichols and Gera Lee Nichols, as citizens by blood, and for the enrollment of William B. Brown, Nancy Brown, Eli W. Brown, Amanda Brown, Sarah Brown, Nancy C. Nichols, Fessie Nichols, Amanda N. Nichols and Osa Nichols, as citizens by intermarriage, of the Choctaw Nation; denying the application for the enrollment of Andrew J. Peck, as a citizen by intermarriage, and dismissing the application for the enrollment of Daphne Myrtle Nichols as a citizen by blood of the Choctaw Nation.

The decision, with the record of proceedings in the case, is this day transmitted to the Secretary of the Interior for review. The final decision of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

Registered.

Commissioner.

Incl. RAN 17/11

DEPARTMENT OF THE INTERIOR
COMMISSIONER TO THE FIVE CIVILIZED TRIBES
Muskogee, I. T. May 21, 1906.

In the matter of the application for the enrollment of William B. Brown as a citizen by intermarriage of the Choctaw Nation and for the enrollment of his daughter, Nancy A. Brown, as a citizen by blood of the Choctaw Nation.

In the matter of the application for the enrollment of William N. Brown and his minor children, Alice, George, Susie, Fannie Cletus and Willie Clarence Brown, as citizens by blood of the Choctaw Nation, and for the enrollment of his wife, Nancy J. Brown, as a citizen by intermarriage of the Choctaw Nation.

In the matter of the application for the enrollment of Sarah Johnston and her three minor children, William Erman, Oscar Lee and Teddy Golden Johnston, as citizens by blood of the Choctaw Nation.

In the matter of the application for the enrollment of Rebecca Brown and her three minor children, Minnie Gertrude, Henry Neighton and Rubie Dill Brown as citizens by blood of the Choctaw Nation and for the enrollment of Eli W. Brown as a citizen by intermarriage of the Choctaw Nation.

In the matter of the application for the enrollment of Mary A. Johnston and her two minor children, Roy Lester and Edna Arvel Johnston as citizens by blood of the Choctaw Nation.

In the matter of the application for the enrollment of Minnie Hudson, formerly Minnie Brown, as a citizen by blood of the Choctaw Nation.

In the matter of the application for the enrollment of Caswell M. Brown and his minor children, Maudie, William, Elbert K., and Annie Jewel Brown as citizens by blood of the Choctaw Nation, and for the enrollment of his wife, Amanda Brown, as a citizen by intermarriage of the Choctaw Nation.

In the matter of the application for the enrollment of Andrew J. Peck as a citizen by intermarriage of the Choctaw Nation and for the enrollment of his wife, Polly Ann Peck, and his minor children, Minnie Florence, Benjamin Grant, Andrew, Otis D., Virgie and Prebble Peck as citizens by blood of the Choctaw Nation.

In the matter of the application for the enrollment of George G. Brown and his minor children, Willie Emma, Cassie and Goldie Brown as citizens by blood of the Choctaw Nation and for the enrollment of his wife, Sarah Brown, as a citizen by intermarriage of the Choctaw Nation.

In the matter of the application for the enrollment of Rebecca McCarty and her three minor children, Mary E., Willie and Ollie McCarty as citizens by blood of the Choctaw Nation.

In the matter of the application for the enrollment of James B. Nichols and his minor child, Nancy Velma Nichols as citizens by blood of the Choctaw Nation and for the enrollment of his wife, Nancy C. Nichols as a citizen by intermarriage of the Choctaw Nation.

In the matter of the application for the enrollment of John W. B. Nichols and his minor children, Louie Herman, Goldie Eula and Sylvia Jewel Nichols as citizens by blood of the Choctaw Nation and for the enrollment of his wife, Bessie Deaton Nichols as a citizen by intermarriage of the Choctaw Nation.

In the matter of the application for the enrollment of Della May Scott, formerly Nichols, and her minor child, Nema Scott, as citizens by blood of the Choctaw Nation.

In the matter of the application for the enrollment of Orin M. Nichols and his two children, Myrtle and Lonie Nichols as citizens by blood of the Choctaw Nation and for the enrollment of his wife, Amanda M. Nichols, as a citizen by intermarriage of the Choctaw Nation.

In the matter of the application for the enrollment of James W. Nichols and his minor child, Cora Lee Nichols, as citizens by blood of the Choctaw Nation and for the enrollment of his wife, Osa Nichols, as a citizen by intermarriage of the Choctaw Nation.

In the matter of the application for the enrollment of Maggie M. Angel, formerly Nichols, as a citizen by blood of the Choctaw Nation.

The persons above enumerated are members of the same family and such of them as were then living originally applied to the Commission to the Five Civilized Tribes for admission to citizenship in the Choctaw Nation under the Act of Congress approved June 10, 1896 (29 Stats., 321), the case being docketed as "1896 Choctaw Citizenship Case No. 1418."

The petitioners were denied admission as citizens of the Choctaw Nation by the Commission to the Five Civilized Tribes under the Act of Congress approved June 10, 1896, from which decision an appeal was taken to the United States Court for the Southern District of the Indian Territory, where the decision of the Commission was reversed and the applicants were on December 20, 1897, admitted to citizenship in the Choctaw Nation (Southern District Citizenship Case No. 96).

The judgment of the United States Court admitting the petitioners was vacated and set aside by the decree of the Choctaw and Chickasaw Citizenship Court of December 17, 1902, in the test case of "Choctaw and Chickasaw Nations or tribes vs. J. T. Riddle, et al."

The case was subsequently certified to the Choctaw and Chickasaw Citizenship Court for a trial de novo, where the same was docketed under the name of "William N. Brown, et al. vs. the Choctaw and Chickasaw Nations, Tishomingo Docket No. 73."

November 29, 1904, the Choctaw and Chickasaw Citizenship court rendered a decree denying the right of admission to citizenship in the Chickasaw Nation of all of the petitioners.

The proceedings before the Commission to the Five Civilized Tribes, the United States Court for the Southern District of the Indian Territory and the Choctaw and Chickasaw Citizenship Court included the names of numerous other persons besides those whose applications are submitted in the present proceedings.

Under the regulations adopted by the Commissioner to the Five Civilized Tribes January 2, 1906, there was filed with this office on February 6, 1906, by Messrs. Cruce, Cruce & Bleakmore, attorneys at law, Ardmore, Indian Territory, petitions for a rehearing of the right to enrollment of the persons above named, in conformity with the opinions of the Assistant Attorney General for the Department of the Interior of February 10, 1905 and December 8, 1905, in the Loula West case.

The Department also, on April 6, 1906 (I.T.D. 3810-1905), returned to the Commissioner to the Five Civilized Tribes the record in the matter of the application for the enrollment of Susie Brown as a citizen by blood of the Choctaw Nation, with directions that a full investigation be made of the rights of the applicant to be enrolled as a citizen of the Choctaw Nation.

The Commission on April 16, 1906, notified the several petitioners, their attorneys of record and the attorneys for the Choctaw and Chickasaw Nations that a hearing would be had in reference to the right to enrollment of the petitioners, at the office of the Commissioner to the Five Civilized Tribes at Muskogee, Indian Territory, on Monday, May 14, 1906, at 9 o'clock A. M.

The hearing in this case was continued upon the request of Messrs. Cruce, Cruce & Bleakmore, from May 14, to May 21, 1906, and due notice of such continuance was furnished the petitioners, their attorneys and the attorneys for the Choctaw and Chickasaw Nations.

DEPARTMENT OF THE INTERIOR
COMMISSIONER TO THE FIVE CIVILIZED TRIBES
Muskogee, I. T. May 21, 1906.

Proceedings had before the Commissioner to the Five Civilized Tribes in the foregoing cases, in conformity with the notices furnished the petitioners, their attorneys and the attorneys for the Choctaw and Chickasaw Nations.

APPEARANCES:

Applicants represented by Cruce, Cruce & Bleakmore,
Ardmore, Indian Territory.
No appearance on behalf of the Choctaw and Chickasaw Nations.

WILLIAM B. BROWNE, being first duly sworn, testifies as follows:

By the Commissioner:

- Q What is your name? A William Brown.
Q William B. Brown? A William B. Brown.
Q How old are you? A I am 69 I believe.
Q Where do you live? I live over here in the Chickasaw Nation.
Q What is your postoffice address? A Tussy.
Q How long have you been in the Chickasaw Nation? A I think I been there 17 years.
Q Where did you come from to the Chickasaw Nation? A From Arkansas.
Q You claim to be a Choctaw Indian, Mr. Brown? A Not by blood, by marriage; I am an intermarried.
Q You are not possessed of any Choctaw blood? A I just married a Choctaw.
Q What is your father's name? A Jesse Brown.
Q What is the name of the Choctaw woman you married? A Cooper.
Q What is her full name? A Becky Cooper.
Q Rebecca Cooper was her name, wasn't it? A I reckon it was Rebecca Cooper.
Q When was you married to Rebecca Cooper? A If I don't forget, it was 1858.
Q Where were you married? A In Arkansas.
Q Where in Arkansas? A Pope County.
Q How long had you known Rebecca Cooper when you married her? A As well as I recollect, some three years, something about that time. Perhaps a little longer.
Q Did you know Rebecca Cooper's parents, her father and mother?
A Yes sir

- Q What was her father's name? A William Cooper.
- Q What was her mother's name? A Barthenia.
- Q How old a woman was Rebecca Cooper when you married her? A She was going on 21, about 21 years of age; I forget just for certain.
- Q Do you know where she was born? A Only just what I heard them say; she was born, I think, over in Tennessee.
- Q Do you know anything about where she was born? A No sir, I couldn't tell you that.
- Q I understand you, Mr. Brown, that the only rights you claim as a Choctaw citizen are by reason of your marriage to Rebecca Cooper? A Yes sir.
- Q You say you moved here about 18 years ago? A 17.
- Q Do you remember what year it was you removed from Arkansas to the Indian Territory? A No sir, I couldn't tell you the year, but it was 17 years last winter.
- Q How many children did you have by Rebecca Cooper? A I got six.
- Q What's the oldest one's name? A William Neighton Brown.
- Q What's the next one? A Caswell M. Brown.
- Q What's the next one? A Polly Ann.
- Q Polly Ann what? A She's a Peck, she married a Peck.
- Q What is the next? A George Grant Brown.
- Q What is the next one? A Alice Brown.
- Q Is her name Nancy Alice? A Yes, Nancy Alice.
- Q What's the next one? A I believe she signs her name Bettie.
- Q Were all of these children born in Arkansas? A Them six, yes sir.
- Q Is Rebecca Brown, who was Rebecca Cooper, the mother of all these children? A She's the mother of them six.
- Q When did Rebecca Cooper die? A I think she's been dead about 23 years.
- Q Did these children of yours remove to the Indian Territory at the same time you came here? A Part of them did; some come just a little later.
- Q When you and your family moved here from Arkansas about 17 years ago had you or any of your children ever been recognized by the Choctaw tribal authorities as citizens of the Choctaw Nation? A When we came here?
- Q Yes? A No sir.
- Q Tell me the first step you took to procure recognition and enrollment of the members of your family as citizens of the Choctaw Nation? A I can hardly tell you; we got a fellow to carry our names. I don't know as I can tell you how we first started, because I had the boys tend to it and I can't recollect just how it was.
- Q Do you know anything with reference to the circumstances of the enrollment of the names of your family on the 1896 roll as citizens of the Choctaw Nation? A I don't recollect it; I can't tell you; I didn't tend to the business myself and I couldn't tell you to save my life.
- Q Rebecca Cooper was dead before you removed to the Indian Territory? A Yes sir, she was dead, she died in Arkansas.
- Q Did you ever marry after her death? A No sir.
- Q As I understand your statement, you don't claim to be possessed of any Choctaw blood? A No, I am not a Choctaw by blood.
- Q Whatever right you have is through this marriage to Rebecca Cooper? A That's it.

The name of the applicant, William B. Brown, appears upon the 1896 Choctaw Census roll on page 41, opposite 1688 as a citizen by blood of the Choctaw Nation. The applicant was denied citizenship in the Choctaw Nation by the Commission to the Five Civilized Tribes in 1896, was admitted on appeal by the United States Court for the Southern District of the Indian Territory and denied by the Choctaw and Chickasaw Citizenship Court November 29, 1904, by a decree in Tishomingo case No. 73.

- Q You stated that you had a girl named Nancy Alice Brown? A Yes.
Q Is she married? A No, she is not married.
Q And you stated you had one named Bettie? A She's married.
Q What is her name? A McCarty.
Q Has she any children? A Three.
Q What are the names of her children? A Mary Ethel; the little boy is named Willie; the little boy has got a double name but I forget just what it is; the baby's name is Ollie.
Q Is your daughter Bettie McCarty here? A No sir, she's not here.
Q How old is Willie McCarty? A He's about two years old.
Q How old is Ollie? A About three months old and the little girl is 4 year old.
Q You say that your daughter Nancy Alice Brown was never married?
A No sir.
Q Is she living? A Yes sir.
Q Where does she live? A In the Chickasaw Nation; she stays at Duncan part of the time.

The name of Nancy Brown appears upon the 1896 Choctaw Census Roll, page 41, opposite No. 1689.

- Q You say your youngest child Bettie Brown is Bettie McCarty? A Yes sir.
Q Is she living? A Yes sir.
Q Where? A She lives over---her postoffice is at Tussey or Roberson.
Q How long has she been living in the Chickasaw Nation? A About 16 years; I came in the spring and she came in the fall.

The name of Bettie Brown appears upon the 1896 Choctaw Census Roll, page 41, opposite No. 1690.

Witness excused.

WILLIAM KNIGHTON BROWN, being first duly sworn, testifies as follows:

By the Commissioner:

- Q What is your name? A William Knighton Brown.
Q What is your age and postoffice address? A I am 43--47 or 48; Live at Comanche.
Q How long have you resided in the Chickasaw Nation? A I think it's been 15 years last February.
Q Where did you come from? A From Portsmouth, in Arkansas.
Q Was you born in Arkansas? A Yes sir.

- Q What's your father's name? A William B. Brown.
 Q What is your mother's name? A Beekie Brown.
 Q Through which one of your parents do you derive your Choctaw blood? A My mother.
 Q Are you married? A Yes sir.
 Q What's the name of your wife? A Nancy J. Brown.
 Q Is your wife a white woman? A Yes sir.
 Q When was you married to her? A I was married---married about 25 years ago.
 Q Where was you married to her? A In Arkansas.
 Q How many children have you by Nancy Brown? A Nine or ten.
 Q What is the name of the oldest? A Sarah Brown, she is now Sarah Johnston.
 Q What is the next one? A Beekie C. Brown.
 Q Is she married? A Yes sir.
 Q What is her name? A Brown---she married a Brown---Eli Brown.
 Q What's the next one? A Mary Brown.
 Q And the next? A Mamie.
 Q And the next one? Alice.
 Q The next one? A George.
 Q And the next one? A Susie.
 Q Have you any children younger than Susie? A Yes sir.

The names of the persons above referred to by the witness appear upon the 1896 Choctaw Census Roll, page 41, as follows:

1691 Wm. H. Brown.
 1692 Nancy J. Brown
 1693 Sarah Brown
 1694 Becky Brown
 1695 Mary Brown
 1696 Minnie Brown
 1697 Alice Brown
 1698 George Brown
 1699 Susie Brown

The matter of the enrollment of Susie Brown as a citizen by blood of the Choctaw Nation is the subject of Departmental letter of April 6, 1906 (I.T.D. 3810-1906) to the Commissioner to the Five Civilized Tribes.

- Q Mr. Brown, how old is Susie Brown? A I can't recollect; I have them down here. She was born October 22, 1896.
 Q You stated that your wife, Nancy J. Brown, was a white woman? A Yes sir.
 Q She has no rights whatever as a citizen of the Choctaw Nation except through her marriage to you? A I guess that's all.
 Q Don't claim to be possessed of Choctaw blood? A No sir.
 Q You say your oldest child, Sarah Brown, is married? A Yes sir.
 Q What's her name? A Johnston.
 Q Is her husband a white man? A Yes sir.
 Q Has she any children? A Three, I believe.
 Q What are their names? A William Arnold Johnston.
 Q How old is he? A Born June 30, 1900.
 Q And the next one? A Oscar Lee Johnston, born November 14, 1902.
 Q And the next one? A Teddy Golden Johnston.
 Q When was he born? A June 15, 1905.

Q You stated your second child was married? A Yes sir.

Q What is her present name? A Brown.

Q Has she any children? A Yes sir.

Q How many? A Four, I believe.

Q What are their names, give me the oldest one? A Minnie Gertrude.

Q When was she born? A Born August 13, 1900.

Q The next? A Henry Neighton Brown, born May 21, 1902.

Q And the next one? A Ruby Dill Brown, born February 12, 1904.

Q Are these the only two of your children that are married? A No sir.

Q Which other one is married? A Mary Johnston.

Q Has she any children? A Got two.

Q What are their names and when were they born? A Roy Lester Johnston, born October 20, 1903; Edna Arvel Johnston, born March 21, 1905.

Q Is that all of your married children? A No sir; Minnie Hudson.

Q What is her name? A Hudson.

Q When was she married? A Last fall some time.

Q Has she any children? A No sir.

Q Her husband a white man? A Yes sir.

Q Have you any children younger than Susie? A Yes sir.

Q How many? A Two.

Q What are their names? A Fannie Cletus Brown.

Q How old is she? A Born February 11, 1901.

Q What's the next one? A Willie Clarence, born April 8, 1902.

Q This family of yours, those that were living, moved here from Arkansas to the Chickasaw Nation about 15 years ago? A Yes sir, I think it was 15 years last spring.

Q Had you at any time, prior to the removal of yourself and your family from the State of Arkansas to the Indian Territory, ever been recognized in any manner whatsoever as citizens of the Choctaw Nation? A Only by the people.

Q I am talking about the Choctaw Nation; was there any tribal recognition? A I guess not---not that I know of.

Q Was you ever recognized by the Choctaw Indian tribal authorities as a citizen? A No sir.

Q You came here in 1891? A Somewhere near that.

Q Tell me the first steps you took to procure your tribal recognition as a citizen of the Choctaw Nation? A Well, we went there and bought some land.

Q You understand what I mean by tribal recognition; the first time you undertook to get the Choctaws to recognize you as a citizen? A About '94.

Q Then at the time the 1893 leased district payment was made to the Choctaws you wasn't recognized? A No sir.

Q Did you try to draw that payment? A I don't think we did.

Q You know whether you did or not. A I don't think we did.

Q You know whether you did or not; did you or did you not try to draw that money? A I don't think know that I know it exactly; I am pretty sure that we didn't.

Q When was the first step that you ever took after that payment was made in '93, and what did you do? A The first thing was when we petitioned the Council.

- Q When was that? A It was about '94.
 Q What time in '94? A I don't believe I could tell you the date; it was in '94.
 Q What took place at that time, what did you do? A We sent a petition to the Council.
 Q Did you go yourselves? A No sir, we sent a lawyer.
 Q Who? A Mr. Gamlin.
 Q What was done with that petition? A What was done with that petition? A We didn't hear anything of that for sometime.
 Q What was the next thing you did? A A The next thing we did was the certificate we have got--sent us from the Council.

The witness presents certificate of Solomon J. Homer, National Secretary of the Choctaw Nation, dated January 23, 1897 to the enrollment of the witness and the members of his family as citizens of the Choctaw Nation by the Board of Census Commissioners appointed in accordance with the Act of the General Council of the Choctaw Nation passed at the regular session of the Choctaw Council in 1896.

The above certificate is filed, made a part of the record and marked Exhibit "A".

- Q Now according to your statement, you knew absolutely nothing of what was done to procure the enrollment of yourself and family as citizens of the Choctaw Nation, between 1894 and the time this certificate was issued to you? A No sir, that's the next we heard of it; that is, myself; some of the other boys might know.
 Q Do you know anything about it? A No sir.

By Mr. Cruce:

- Q When the Board of Census Commissioners was around in 1896, you wasn't before them? A No sir.
 Q What business are you in? A Farming.
 Q What recognition, if any, since '96, have you received as a member of the Choctaw tribe?

By the Commissioner:

We will have to exclude that.

By Mr. Cruce:

We want to show that since that-----

By the Commissioner:

We will have to decline to do that; the members of this family have been denied by the Citizenship Court and this rehearing is passed on the assumption that the Daves Commission in 1896 never acquired jurisdiction over these people, because they were citizens prior to that date.

By Mr. Cruce:

But it occurs to me that tribal recognition will throw light upon that date.

By the Commissioner:

No sir; if they were not recognized the Department has held that the Commission had jurisdiction in '96.

By Mr. Cruce:

We will ask permission to file with the record, a copy of the petition transferring the case of Wm. M. Brown, et al. vs. the Choctaw and Chickasaw Nations from the United States Court for the Southern District of the Indian Territory, Ardmore, to the Citizenship Court and a copy of the motion filed to dismiss the case out of the Citizenship Court.

Q Have you the names of the Peck family? A Yes sir.

By the Commissioner:

Q Are you the oldest one of Rebecca Cooper's children by Brown?

A Yes sir.

Q What's the name of the next oldest child? A Caswell M. Brown.

Q Is he here? A Yes sir.

Q What's the name of the next one? A Polly Ann Peck.

Q Is she here? A No sir.

Q Is she living? A Yes sir.

Q Is she your full sister? A Yes sir.

Q How many children has she? A Seven, I believe.

Q Do you know their names? A Yes sir.

Q What is the name of her oldest? A Minnie Florence.

Q Is she living? A Yes sir.

Q What's the name of the next? A Oscar Sherman.

Q Is he living? A Yes sir.

Q And the next one? A Benjamin Grant.

Q Is he living? A Yes.

Q And the next one? A Andrew Peck.

Q Is he living? A Yes sir.

Q What is Polly Ann's husband's name? A Andrew J. Peck.

Q Is he here? A No sir.

Q Is he a white man? A Yes sir, he doesn't claim any Choctaw.

Q He is not descended from the same ancestry as you and the other members of your family? A No sir.

The names of Andrew J. Peck and his wife, Polly Ann Peck, and the following members of their family appear upon the 1896 Choctaw Census Roll, page 268, as follows:

10517 Andrew J. Peck
10518 Polly Ann Peck
10519 Minnie F. Peck
10520 Oscar S. Peck
10521 Benj. G. Peck
10522 Andrew Peck

Q How old is Andrew Peck? A Ten years old, November 13th last.

Q Has Polly Ann Peck any children younger than Andrew? A Yes sir

Q how many? A Three, I believe, it says.

Q What are their names? A Otis Dewey.

Q And the next? A Prebble.

Q How old is? A Two years old.

Q What's the next one? A That's all. I missed one, Virgie

Peck.

Q How old is Virgie? A Four years old.

- Q Did your sister, Polly Ann Peck come to the Indian Territory the same time you did? A A little before.
- Q Has she lived here continuously since that time? A Yes sir.
- Q Are all of these children that you mention, living now? A Yes sir.
- Q None of her children are married? A No sir.

By Mr. Cruce:

- Q Mr. Brown, were you ever recognized by the tribal authorities and permitted to issue permits to non-citizens? A Yes sir.
- Q I mean prior to '96? A It was in '95 or '96; I think it was '95.
- Q Was you ever in the mercantile business? A Yes sir.
- Q Who with? A Mr. Peck and my father.
- Q When were you in the mercantile business? A I don't know exactly the date.
- Q About what year was it, before or after you applied to the Dawes Commission? A Before, I think.
- Q Did the tribal authorities collect taxes? A No sir.
- Q Did they try to? A No sir.
- Q I refer to the merchandise tax that is collected from non-citizens? A No sir, none at all; they never asked us; no cattle tax or anything of that kind.

Witness excused.

CASWELL M. BROWN, being first duly sworn, testifies as follows:

By the Commissioner.

- Q What is your name? A Caswell M. Brown.
- Q How old are you and where do you live? A I am 42, I believe; I live near Tussy, Chickasaw Nation.
- Q How long have you lived in the Chickasaw Nation? A 16 years.
- Q Have you lived there continuously? A Yes sir.
- Q Where did you come from? A From Arkansas.
- Q Where was you born? A In Arkansas.
- Q Where in Arkansas? A Pope County.
- Q What is your father's name? A William B. Brown.
- Q What's your mother's name? A Rebecca Brown-Cooper.
- Q Through which one of your parents do you derive your Choctaw blood? A My mother.
- Q What was your mother's maiden name? A Cooper.
- Q Do you know anything about your mother's ancestors or her people? A Her mother I remember seeing; her father died when I was very small; I don't remember seeing him.
- Q What was your mother's mother's name? A Barthonia Halbrooks.
- Q Do you know your mother's father's name? A William Cooper.
- Q I was taught; I don't remember seeing him.
- Q You know nothing about your ancestors further back than your mother's mother? A No sir, nothing more than I was told.
- Q Are you married? A Yes sir.
- Q What is your wife's name? A Amanda Brown.
- Q Is she living? A Yes sir.
- Q Does she claim to be possessed of Choctaw blood? A Not in this; she is said to be possessed of Choctaw blood.
- Q The only right she has in this Cooper family is by reason of her marriage to you? A Yes sir.
- Q How long have you been married? A Twenty years the 24th of

last December.

- Q Where were you married? A In Arkansas.
Q How many children have you? A Four.
Q What's the name of the eldest? A Maudie Brown.
Q The next one? A Billie Brown, or Willie.

The name of this witness, his wife and the two children referred to appear upon the 1896 Choctaw Census Roll, page 42, as follows:

1701 C. M. Brown
1702 Mandy Brown
1703 Maudie Brown
1704 William Brown

- Q You say you have two children younger than Willie? A Yes sir.
Q What are their names? A Elbert K. Brown.
Q When was he born? A He's six years old the 8th of last October.
Q What's the next one? A Annie Jewel Brown.
Q How old is she? A Three years old the 9th of November, I believe it is.
Q This year? A Last November.
Q Are all these children living? A Yes sir.
Q All live in the Indian Territory? A Chickasaw Nation, yes sir.
Q You say you came here from Arkansas about 17 years ago? A Yes sir.
Q Do you know what year it was? A No sir, it was either 16 or 17 years ago.
Q Had you or the members of your family ever been recognized by the tribal authorities of the Choctaw Nation prior to the time that you came to the Indian Territory? A Not as I know of.
Q What was the first step that you took to procure the tribal enrollment of yourself and your family? A We made a petition to the Choctaw Council.
Q Did you join in that petition? A Yes sir.
Q When was that? A Sometime in '94.
Q Do you remember what time? A No sir, I have kept no record about about the date and don't know.
Q What was done with that petition? A We never knew anything more about it until the Census Board came around in '96 at Duncan and I went before them and asked to be enrolled and they inquired and I told them the circumstances of the case and they said they would investigate the matter and see and probably take it up later.
Q Who was that census committee? A It seems to me it was one of the Gardners and Tolson, but I can't remember.
Q Was that after you had had this petition filed with the Council? A Yes sir.
Q Who filed that petition? A We sent it down there by a man called Gamlin.
Q Did you ever go before the Council? A Beside this petition? Yes? A No, I never was down there aside from this petition; the petition set forth our ground that we claimed under.
Q Who did you claim under? A My great grandfather, Johnny Cooper who was on the roll in Mississippi.
Q Then you know nothing of the circumstances under which the names of yourself and family were put on this 1896 census roll? A Nothing more than that?
Q You had this petition drawn up in 1894? A Yes sir, showing our ground and who we were.

By Mr. Grace:

- Q The petition of '94 stated the names of the family, and claimed to trace your ancestry back to Johnny Cooper, who you were told was on the roll in Mississippi? A Yes sir.
- Q You understood he took land in Mississippi? A That's what I was advised and I was advised to come here and get my land.
- Q You didn't hear any more of this petition until the Census Committee came in 1896? A No sir.
- Q How many appeared before the Census Committee? A Myself, J. B. Nichols, O. W. Nichols---and I don't remember any more.
- Q In that testimony before that Committee did you tell them how you claimed your ancestry? A Yes sir, they asked all them questions.
- Q They said they would take it up later and you knew nothing about it until you received these certificates through the mails? A No sir.
- Q Old man Johnny Cooper, through whom you claim, what were the names of his children? A William and Delitha Cooper.
- Q By whom were you told that? A By my mother and my grandmother and all them old people.
- Q You say you came to this country on that information? A Yes sir.
- Q Did you take up land? A Yes sir.
- Q How soon after you got here? A Just in a year---as soon as I could arrange to get on some land.
- Q How about the other members of the family? A They began to get land as soon as they could.
- Q Before the time you applied to the Daves Commission were you given a right to issue permits by the Choctaw authorities? A Yes sir, they gave permits under me for my tenants.
- Q Were you ever required to pay cattle tax? A No sir, they never named such a thing to us; the old permit collector would often come and stay all night with us and he never named such a thing.

Witness excused.

WILLIAM WRIGHTON BROWN recalled:

By the Commissioner:

- Q What is the name of your brother or sister next younger than Pelly Ann Peak? A G. G. Brown.
- Q George G. Brown living? A Yes sir.
- Q Where does he live? A He's in Arkansas.
- Q How long has he been living in Arkansas? A Two or three years.
- Q Did he ever live in the Indian Territory? A Yes sir.
- Q When did he go to Arkansas? A He left here about two or three years ago; he lived here from the time he came here.
- Q When did he come? A About 18 years ago.
- Q Is he married? A Yes sir.
- Q What is the name of his wife? A Sarah.
- Q Is she living? A Yes sir.
- Q Is she a white woman? A Yes sir.
- Q When was George G. Brown married to her? A I don't believe I could tell you exactly---about '96---somewhere along there.

The name of George G. Brown and his wife, Sarah Brown, appear upon the 1896 Choctaw Census Roll, page 42, as follows:
1705 George G. Brown
1706 Sarah Brown

Q Has George G. Brown any children? A Yes sir.
 Q How many? A Three.
 Q What are their names? A Willie Emma Brown.
 Q How old is she? A Born March 22, 1896.
 Q What's the next one? A Cassie.
 Q How old is she? A Born May 30, 1900.
 Q And the next one? A Goldie Brown, born September 5, 1904.
 Q Are all these children living? A Yes sir.
 Q Are they all the children of George G. Brown? A Yes sir.
 Q George G. Brown is your full brother, same father and mother?
 A Yes sir.

By Mr. Cruce:

Q You say George G. Brown is in Arkansas? A Yes sir, went there on a visit and his little girl taken sick and lost her mind and his wife is staying there yet; didn't go to move there.

Witness excused.

JAMES B. NICHOLS, being first duly sworn, testifies as follows:

By the Commissioner:

Q What is your name? A James B. Nichols.
 Q How old are you and where do you live? A Fifty-seven; live in the Chickasaw Nation, at Comanche.
 Q How long have you lived in the Chickasaw Nation? A 16 years last June.
 Q Lived there continuously? A Yes sir.
 Q Where did you come from? A Arkansas.
 Q Whereabouts in Arkansas? A Pope County.
 Q Where was you born? A Pope County, Arkansas.
 Q What is your father's name? A Wilson L. Nichols.
 Q What was your mother's name? A Delitha Cooper Nichols.
 Q Through which one of your parents do you derive your Choctaw blood? A My mother.
 Q Do you know anything of your mother's ancestry---where she came from? A No, I never saw her.
 Q You never saw your mother? A Yes.
 Q Knew anything about her father and mother? A No sir.
 Q Know anything about them? A Only by hearsay.
 Q What was her father's name? A John Cooper.
 Q You say you was born in Pope County, Arkansas, 67 years ago?
 A Yes sir.
 Q How long had your mother been living in Arkansas at that time?
 A I don't know, sir.
 Q Do you know where your mother's family came from? A Came from Tennessee, somewhere near the line of Mississippi; that's what I understand.
 Q Are you married? A Yes sir.
 Q What is your wife's name? A Nancy C. Quest.
 Q Is she a white woman? A Yes sir.
 Q Whatever right, if any, your wife has, is through you? A Yes sir.
 Q She claims to be an intermarried citizen? A Yes sir.
 Q When was she married to you? A Married in 1878.

- Q Where? A Pope County, Arkansas.
 Q Have you any children by Nancy C. Nichols? A Yes sir.
 Q How many? A Three living.
 Q What's the name of the oldest one? A Johnnie Nichols; John William Bethel is his full name.
 Q What's the next one? A Della May.
 Q And the next one? A Nancy Velma.

The name of the witness, his wife and children above referred to, appear upon the 1896 Choctaw Census Roll, page 248, as follows:

9803 J. B. Nicholas
 9808 Nancy Nicholas
 9809 Johnnie Nicholas
 9810 Della Nicholas
 9811 Velma Nicholas

- Q You say that you and this family of yours came from Pope County, Arkansas to the Chickasaw Nation about 16 years ago? A 16 last February.
 Q Had you prior to the time of your removal to the Indian Territory ever been recognized in any manner as a citizen of the Choctaw Nation? A No sir.
 Q When did you first attempt to procure your tribal recognition as citizens? A 1894, September or November.
 Q What did you do at that time? A We sent our names down to the Council.
 Q Did you go before the Council? A No, I didn't.
 Q What time in '94 was that? A It was in the fall --September.
 Q Was there a written petition submitted to the council? A Yes sir, they wrote out our names and sent it to the council.
 Q Did you ever appear before any citizenship committee or enrollment committee in reference to the enrollment of yourself and family? A At Duncan, when the Census Board was there.
 Q When was that? A In the fall of '96.
 Q What month? A That's something I don't know; it was September or November---somewhere along there.
 Q This petition that you submitted to the Council, do you personally know anything of its presentation? A Only what the gentleman told us when he came back.
 Q When did you next hear about it? A When I got the certificate
 Q When did you get the certificate? A Got it in '97, I think.

The witness presents certificate of Solomon J. Homer, National Secretary of the Choctaw Nation, dated January 23, 1897, as to the enrollment of J. B. Nicholas and certain members of his family as citizens of the Choctaw Nation, under an Act of the Choctaw Council passed at the regular session in 1896, for the purpose of enrolling citizens of the Choctaw Nation.

The above certificate is filed, made a part of the record and marked Exhibit "B".

- Q You personally then have no knowledge of what was done in reference to the procuring of your enrollment any more than the receipt by you of this certificate? A Yes sir, that's all.

By Mr. Cruise:

- Q You sent your petition in to the Council in '94 and asked to be admitted; did that petition state the ground on which you claim citizenship? A Yes sir.
- Q Who did you say you sent that by? A By Gamlin.
- Q What Gamlin? A J. H. Gamlin, I think.
- Q Did he have an application of his own pending? A Yes sir.
- Q The next you heard of it was when the Choctaw Census Committee was in Duncan? A Yes sir.
- Q Some of your appeared before that Committee? A Me and my brother.
- Q Did you restate to that committee the grounds on which you claimed citizenship? A Yes sir.
- Q And the next you heard of it was when you received this certificate through the mail? A Yes sir.
- Q Did you pay any member of the legislature or any member of that committee for the purpose of enrolling you? A I did not.
- Q Did you pay anything to Mr. Gamlin? A No sir.
- Q Did any of your family? A Not that I know of.

Mr. Commissioner, I believe the record shows that you identified J. W. B. Nichols as on the rolls.

- Q Is J. W. B. Nichols your son? A Yes sir.
- Q Got any children? A Three.
- Q What are their names? A Louis Herman is the oldest.
- Q How old is he? A Born May 15, 1900.
- Q Give the next one? A Goldie Bula, December 15, 1901 and Sylvia Jewel, May 26, 1903.
- Q What is his wife's name? A Bessie.
- Q What was her maiden name? A Deaton.
- Q Do you know when he married? A It must have been in '98, I guess.
- Q You say Della May---you have a child named Della May? A Yes sir.
- Q Who did she marry? A Burris Scott.
- Q Has she any children? A Yes sir.
- Q How many? A Got two; Nema May---
- Q How old is she? A Three years old.
- Q What is the name of the next? A The next one is Lita Lois.
- Q How old is she? A Born February 1st of this year.
- Q Have you any other children? A No sir.
- Q When did you say you came to this country? A Got here the 6th of January 1890.
- Q Before you applied to the Dawes Commission for enrollment, what tribal recognition, if any, did you receive? A They didn't make me pay no tax, cattle tax; nor none on my goods---I was a merchant in '94.
- Q You stated a while ago that all you know about your ancestry was from hearsay? A Yes sir.
- Q Who was that hearsay from? A My mother.
- Q What was your purpose in coming to the Indian Territory? A To get my rights---my land.
- Q What had been the family history as to whether or not Cooper was Indian? A Always claimed he was an Indian.

Q Any claims as to whether he had received tribal recognition?
A They told me he had taken land in Mississippi.

Witness excused.

ORIN M. NICHOLS, being first duly sworn, testifies as follows:

By the Commissioner:

Q What is your name? A Orin M. Nichols.
Q What is your age and postoffice address? A I was born February 19, 1864; Comanche is my postoffice address.
Q Where was you born? A In Newton County, Missouri.
Q What year was you born? A 1864, February 19th.
Q What's your father's name? A Wilson.
Q What is your mother's name? A Delitha.
Q Are you a full brother of J. B. Nichols, who has just testified?
A Yes sir.
Q You heard his testimony, didn't you? A Yes sir.
Q He testified he was born in Pope County, Arkansas, and resided there until he removed to the Chickasaw Nation, Indian Territory; you state you were born in Missouri? A Yes sir, at the time of my birth---my father went to Missouri just before I was born; then they came back to Pope County, Arkansas.
Q What was your mother's maiden name? A Cooper.
Q Do you know who her father was? A John Cooper.
Q Do you know anything about your mother's ancestry? A Only just what she has told me.
Q When did your mother come to the State of Arkansas? A In the 30s sometime.
Q Do you know where she came from? A From Tennessee and Mississippi, she said.
Q Have you lived continuously in the Chickasaw Nation? A Ever since I came.
Q Are you married? A Yes sir.
Q What's your wife's name? Amanda M.
Q Is she a white woman? A Yes sir.
Q The only right she would have as a citizen would be through you? A Yes sir.
Q Where was you married to her? A In Pope County, Arkansas.
Q When was you married? A October 20, 1878.
Q How many children have you had by Amanda M. Nichols? A Four.
Q What is the name of the oldest? A James W.
Q Is he living? A Yes sir.
Q What is the next? A Maggie M.
Q What is her present name? A Angel.
Q What's the next one? A Mittie.
Q Is she married? A No sir.
Q What's the next? A Lonie.
Q Are these the only four children you have? A Yes sir.
Q Are these children now living? A Yes sir.
Q Live in the Indian Territory---always lived here? A Ever since I came here.

The name of the witness, Orin M. Nichols, his wife and children referred to appear upon the 1896 Chectaw Census Roll page 248, as follows:

9812 Ora M. Nicholas
9813 Amanda Nicholas
9814 James A. Nicholas
9815 Maggie Nicholas
9816 Myrtle Nicholas
9817 Lena Nicholas

- Q You say your son, James W. Nichols, is married? A Yes sir.
- Q Has he any children? A One living.
- Q What is the name of that child? A Cora Lee.
- Q When was she born? A Born in November, the 6th, 1902.
- Q What is the name of his wife? A Osa; her maiden name was Osa Richardson.
- Q You say your second child Maggie is now named Angel? A Yes sir.
- Q Has she any children? A No sir.
- Q When was she married? A November 5, 1905.
- Q When did you and your family move to Indian Territory? A 1890.
- Q Where did you come from? A Pope County, Arkansas.
- Q Had you or the members of your family ever been recognized in any manner as citizens of the Choctaw Nation prior to the time you removed to Indian Territory from Arkansas? A No sir.
- Q What was the first step you took to procure the recognition of the members of your family? A The first thing was to move here and get it started. After we got out here, in the fall of 1894, we petitioned the Choctaw Council at Tuskahoma.
- Q What was done with that petition? A We didn't hear any more of that petition until the Census Board of 1896 came around, making up the roll of the citizens of the Choctaw Nation at Duncan.
- Q What was done then? A I appeared before them and demanded enrollment and they asked me why or by what authority I demanded enrollment. I told them I had petitioned the Council in the fall of '94 and had not received any notice whether I was rejected or accepted. They asked me who my parents and grandparents was and they said, well, we can't enroll you now but will take this matter up later; and later, I think about the first of the year, we received these certificates we have here on admission.
- Q Do you personally know of any of the steps taken to procure the inscription of the names of yourself and the members of your family upon the 1896 Choctaw Census Roll? A No sir, only what I have told you?
- Q About the time you applied to the Census Committee in 1896, didn't you also apply to the Dawes Commission for the admission of yourself and your family? A You see the Census Committee hadn't heard of our petition, whether it was rejected or accepted and we was advised by people that seemed to know that the right of the Choctaw people to enroll their own people was took out of their hands and given to the Dawes Commission and for that reason we had to petition the Dawes Commission just prior to the time this Census Commission came to Duncan.
- Q In that petition that you made to the Dawes Commission in 1896 there were a great many other people claiming to be entitled to enrollment as the descendants of John Cooper? A Yes sir.
- Q Of all of these people included in that petition, were the members of your family and the family of William B. Brown the only ones who were enrolled and admitted by this Census Committee? A Yes sir.
- Q Where were the other members of the family? A They wasn't present, they wasn't in that part of the country where we was.
- Q Were they living in Indian Territory? A Yes sir, most of them in fact, all of them.
- Q How long had they been here? A They came shortly after I did; Minny Sanders, my sister, and her children come later on. They came a year later after this certificate was made out.

By the Commissioner:

- Q What time in '94 was it that this petition that you refer to was submitted to the Choctaw Council? A I think it was in October.
- Q At what time was this petition alleged to be presented to the Council? A My recollection is October 1894.
- Q You presented it as an attorney for Brown and Nichols? A Well they just asked me to present it as I was going.
- Q Did you ever hear anything more from it? A Never did.
- Q You state that you saw Mr. Brown and Mr. Nichols and the other petitioners at Duncan in the fall of '96? A When the Census Commission was there I seen them.
- Q Do you know as to when they applied to this census committee in '96, as to whether or not it had any connection whatever with the petition submitted to Jackson in 1894? A No sir, I don't know anything about that.

By Mr. Rosenwinkel:

- Q At the time you presented a petition for these Brown people, you presented a petition for yourself? A At the same time, you mean?
- Q Yes? A No sir, mine had been presented a year or two before that.
- Q What was done with your petition? A Nothing.
- Q What is the status of your citizenship claim at this time? A I hold a judgment in the Federal Court.
- Q Are you related to these people? A No sir, no kin to me.

Witness excused.

Olga Petroff, a stenographer to the Commissioner to the Five Civilized Tribes, on oath states that she reported the proceedings had in the above entitled cause and that the foregoing is a full, true and correct transcript of her stenographic notes thereof.

Olga Petroff

Subscribed and sworn to before me this 4th day of June, 1906.

Walter H. Chappue
Notary Public.

DEPARTMENT OF THE INTERIOR
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.
Muskogee, I. T. June 4, 1906.

In the matter of the application for the enrollment of William B. Brown, et al., as citizens of the Choctaw Nation.

Further proceedings had before the Commissioner to the Five Civilized Tribes, at his office at Muskogee, Indian Territory, on Monday, June 4, 1906.

APPEARANCES:

Applicants represented by W. R. Bleakmore, of Cruce, Cruce & Bleakmore, Ardmore, Indian Territory.
Choctaw and Chickasaw Nations represented by G. Rosenwinkel, of Mansfield, McMurray & Cornish.

By Mr. Rosenwinkel:

The Choctaw and Chickasaw Nations object to any proceedings at this time for the reason that the applicants have been denied citizenship by a decree of the Choctaw and Chickasaw Citizenship Court. Said decree is final and there is no power now vested in the Secretary of the Interior or any other tribunal to hear and determine this case anew.

JOHN H. GAMBLIN, being first duly sworn, testifies as follows:

By Mr. Bleakmore:

- Q You may state your name, age and residence? A John H. Gamblin, age 58, residence Duncan.
- Q You may state, Mr. Gamblin, whether you are acquainted with William B. Brown and Nancy A. Brown, his daughter? A Yes sir, I am acquainted with them.
- Q And with Minnie Hudson, whose name was Minnie Brown? A The wife of Francis Hudson? Yes, I am acquainted with her.
- Q And with Sarah Johnston, Oscar Lee and William H. Johnston? A Yes sir.
- Q And with Rebecca Brown, Minnie Gertrude Brown, Henry Heighon Brown, Ruby Dill Brown and Levi Brown; do you know them? A Yes sir.
- Q Are you also acquainted with Mary A. Johnston and Roy Lester Johnston? A I am, acquainted with Mary A. Johnston.
- Q You don't know Roy Lester? A A son of hers?
- Q Yes? A I don't know what his name was.
- Q Are you also acquainted with Rebecca McCarty, William A. McCarty, Mary E. McCarty and Rebecca McCarty being known at one time as Rebecca Brown? A No sir, I don't recollect the name.
- Q Do you know any one named Betty Brown? A Yes sir.
- Q You know her, do you? A Yes sir.

- Q Are you acquainted with William A. McCarty? A No sir, I am not.
- Q You don't know Mary E. McCarty? A No sir.
- Q Are you acquainted with William W. Brown, Nancy J. Brown, George Brown, Alice Brown, Susie Brown, Oletus Brown and Clarence Brown? A I knew the older ones called, but the two last ones I don't know.
- Q You know all except the last two mentioned? A Yes sir.
- Q Are you acquainted with Andrew J. Peck, Pelly Ann Peck, his wife, Minnie Florence Peck, Benjamin Grant Peck, Andrew Peck, O. D. Peck, Virgie Peck and Prebble Peck? A I know all of them but the two last called.
- Q Are you acquainted with C. M. Brown, Amanda Brown, Mudie Brown, William Brown, Elbert K. Brown and Annie Jewel Brown? A Acquainted with all but the last two called.
- Q Are you acquainted with George G. Brown, Sarah Brown and their children, Willie Emma, Cassie and Goldie? A I know Sarah Brown.
- Q You know the woman mentioned here, Sarah Brown? A Yes sir.
- Q Are you acquainted with any of the others, who are alleged to be her children? A No sir.
- Q Are you acquainted with J. B. Nichols, Nancy Nichols and Velma Nichols? A Yes sir.
- Q Are you acquainted with John W. B. Nichols, Bessie Deaton Nichols Louie Herman, Goldie Mula and Sylvia Jewel Nichols? A I am acquainted with Nichols and his wife but none of the children.
- Q You don't know the children? A No sir.
- Q Are you acquainted with Della May Scott and Nema Scott? A I am acquainted with Della May but not the child.
- Q Do you know Orin M. Nichols, Amanda Nichols, Myrtle Nichols and Lonie Nichols? A Yes sir.
- Q All of them? A All of them.
- Q Do you know James W. Nichols, Osa Nichols and Cora Lee Nichols? A Yes sir.
- Q Do you know Maggie Angel, whose name was Maggie Nichols? A Yes sir.
- Q You may state whether or not you were acquainted with the adults I have called, in the year 1894? A Yes sir, I was.
- Q You may state where they resided at that time? A At Comanche, Indian Territory.
- Q You may state whether or not in the year 1894 you presented to the Council of the Choctaw Nation the petitions of these parties to be enrolled as citizens of that Nation?

By Mr. Rosenwinkel:

I will object to that on the ground that it is leading.

By the Commissioner:

He can answer subject to the objection.

A I filed these persons at Comanche; my recollection is that it was in 1894.

By the Commissioner:

Q What do you mean by the expression that you "filed them"? A Before the Council.

Q What do you mean by that? A I filed a petition for citizenship.

By Mr. Bleakmore:

Q Go ahead, Mr. Gamblin and explain to the Commissioner just what you did at that time and to whom you presented the application and the nature of the application, as to whether it was written or not?

By Mr. Rosenwinkel:

I want to interpose another objection. The Citizenship Committee of the Choctaw Nation was a tribunal of record and the record would be the best evidence if any application was made. I do not think it is competent for this man to come in here and testify that made an application for these people. If an application was made there is a record of it.

By the Commissioner:

Is the purpose of this examination merely to show that an application was made or attempted to be made for the admission of these people to the Choctaw Council in 1894 or is it claimed or insisted that there was any specific act of admission by the Council.

By Mr. Bleakmore:

The only purpose we have in offering the evidence is to show that an application was made in writing in the year 1894 to the Council of the Choctaw Nation. So far as my information is concerned no action was ever had upon this application until the action of the committee which enrolled the names of these applicants upon the census roll of 1896.

By the Commissioner:

Was there any connection between the motion that was filed in 1894, if such was filed, and the application these people made to the census committee in 1896; in other words, wasn't this placing of their names on the 1896 roll a separate and distinct proposition from the petition that was filed in '94?

By Mr. Bleakmore:

Our contention is that the application was made to the authorities of the tribe in 1894 and that after the appointment of the Committee acting upon these applications under the authority of the Act of Council, these people were enrolled after evidence had been introduced as to their rights.

Q You may state whether or not the application you filed was in writing? A Yes sir, the application was in writing.

Q You may state with whom that was filed?

By Mr. Rosenwinkel:

I object to each one of those questions for the same reasons heretofore stated.

Witness is permitted to answer: A With the Secretary.

Q Of the Choctaw Nation? A Of the Choctaw Nation.
 Q Do you recall his name? A Jacob Jackson.
 Q You were personally present and acted in the filing of that petition? A Yes sir.
 Q Now, you may state if you know the names of the persons in that petition? A I couldn't state all of the children.
 Q State the adults? A Brown.
 Q Give his initials? A W. H. Brown, O. M. Nichols and their families---the elder children.
 Q You may state, if you know, whether these people appeared before the census committee? A I don't know about that. I seen them in town the day the census committee was there.
 Q At what place? A Duncan.
 Q In what year? A '96. Late in the fall of '96; I don't recollect what month.

By Mr. Rosenwinkel:

Q Are you an attorney? A I am not.
 Q How did you come to represent these people? A I had business before the Council of my own and they got their applications up and asked me to file them.
 Q You were a citizenship applicant yourself? A Yes sir, at that time, or before that.
 Q What action, if any, was taken on that petition? A None that I know of.
 Q It wasn't acted upon; do you know anything about when the names of these persons were placed on the '96 roll? A No sir, I don't.
 Q How many persons were named in the petition that you filed? A I couldn't tell you that.
 Q You say you handed that petition to Jacob Jackson? A Yes sir, Jacob Jackson.
 Q When was that? A My recollection is '94.
 Q Are you positive? A I am not positive it was '94; it was thereabouts.
 Q You say the Choctaw census Commission came over to Duncan? A Yes sir.
 Q Who was on that Commission? A Alec Durant, Simond Lewis and Davisson Homer.
 Q When was it, at what time of the year? A Sometime late in the fall, I don't recollect what month.
 Q What year, '94? A '96.
 Q Late in the fall of '96; was it subsequent to the 10th day of September, 1896? A Yes sir.
 Q At that time were the names of these people placed upon the so-called 1896 roll? A I don't know.
 Q Do you know whether or not they were ever placed on any roll prior to that? A No sir.
 Q You don't know anything about that? A No sir.
 Q All that you know is that some sort of a petition was prepared and you carried it to Jacob Jackson? A Yes sir.
 Q You don't know whether it was ever presented to the Council? A No, I don't know that.
 Q You don't know whether it was presented to the Citizenship tribunal? A No sir.

Q They came then in 1897? A They moved into the country in the spring of '98, but during that time they had lived where we was and came away east in the Choctaw Nation.

There is presented the certificate of Solomon J. Homer, National Secretary of the Choctaw Nation, dated January 28, 1897, as to the enrollment of Andrew J. Beck, his wife and four children, George G. Brown and Sarah Brown as citizens of the Choctaw Nation, under an Act of the Choctaw Council passed at the regular session in 1896, for the purpose of enrolling citizens of the Choctaw Nation.

The above certificate is filed, made a part of the record and marked Exhibit "C".

There is offered in evidence by the Commissioner, copy of an opinion rendered by H. S. Foote, Associate Judge, Choctaw and Chickasaw Citizenship Court, November Term, 1904, in the case of William Heighen Brown, et al., vs. the Choctaw and Chickasaw Nations.

The above opinion is filed, marked Exhibit "D" and made a part of the record.

This case is continued for further hearing until Monday, June 4, 1906, at 11 o'clock A. M.

Olga Petroff, a stenographer to the Commissioner to the Five Civilized Tribes, on oath states that she reported the proceedings had in the above entitled cause and that the foregoing is a full, true and correct transcript of her stenographic notes thereof.

Olga Petroff

Subscribed and sworn to before me this 1st day of June, 1906.

Edward M. Herriest
Notary Public.

D.C.M.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

J.W.H.
V.C.R.
J.W.L.

GWV
File-S-51.

March 1, 1909.

The Commissioner
to the Five Civilized Tribes.

Sir:

January 25, 1909, you were advised that the names of certain persons were inadvertently included in Departmental letter of January 19, 1909 (File S-51); that such mistake was due to the fact that it was supposed they were enrolled upon schedules approved by the Department, when in fact, the only schedules upon which their names appear were disapproved, and that no action should be taken under the circumstances looking to the erasure of interlineations or notations, if any, from the disapproved schedules, in connection with their names.

The names of the persons referred to in said letter of January 25, 1909, are as follows:

Choctaws by Blood.

Roll No.

16103	Elizabeth Allen.
16112	George A. Hargraver.
16110	Louitia Crutchfield.
16106	Everett Crutchfield.

16111	George W. Crutchfield.
16105	Ida Crutchfield.
16107	Ima Crutchfield.
16108	Levinia Crutchfield.
16109	William Crutchfield.
921	Josephine Laflere Long.
922	Jake Laflere Long.
16104	David Ritter.

It now appears from the records of the Secretary's Office that there was a schedule approved May 21, 1904, by the Secretary of the Interior, and that the approval then given was cancelled by said Secretary at a later date, to-wit, June 23, 1904.

The name of Elizabeth Allen appears upon the schedule which was approved May 21, 1904, opposite the number 15551. Ida Crutchfield's name appears opposite No. 15553, while the other members of the Crutchfield family were given the numbers immediately following that assigned to her.

You are requested to cause a report to be prepared showing whether the records of your office also show that an earlier schedule containing the names of said persons was approved May 21, 1904; also whether such approval was cancelled June 23, 1904. Please report also the reason for the attempted cancellation, and whether prior notice was given thereof.

It appears further that, in connection with the names of Elizabeth Allen and the Grutchfield family on the roll approved May 21, 1904, the names of Ardella Hickman, Ida M. Southard and Grover Randall are also to be found.

In connection with said names, it is desired that you will report what action, in your opinion, should be taken concerning the first of said persons; also whether the said Ida M. Southard and Grover Randall, respectively, are identical with the Ida M. Southard whose name appears opposite No. 15860 in the printed rolls of citizens by blood of the Choctaw Nation, and the Grover Randall whose name appears on page 8 of Departmental letter of January 19, 1909 (File 5-51), opposite No. 15928.

As appears from the above list, there were other persons besides the said Allen and Grutchfields whose names were enrolled on schedules which were finally disapproved by the Department: for example, George A. Bungarner, Josephine Laflore Long and Jake Laflore Long.

Please report whether the names of these persons appear upon any prior approved schedule; also why it was that the Commissioner to the Five Civilized Tribes enrolled them upon the schedule which was disapproved by the Department, showing whether the Commissioner enrolled them thereon, of his own motion, or under decision or instructions from the Department.

By comparison of the roll approved May 21, 1904, with the printed rolls of Choctaws by blood, the Department

4

finds that the numbers appearing thereon opposite the names of said persons were subsequently assigned to other citizens of the Chester Nation; thereby the series of roll numbers was kept perfect, but a material portion of the rolls was evidently sacrificed upon the supposition that it had become worthless. Inquiry arises in this connection as to whether there were other approved schedules which were subsequently disapproved and thrown aside. Accordingly, it is desired that you also cause a report to be prepared covering this feature of the matter, showing all persons embraced in similar cases, with recommendation as to what action should be taken as to them. This will necessitate a statement as to why their names were stricken or cancelled from the rolls, and whether such action was taken without prior notice.

There is still another matter concerning which the Department desires report to be made. It is observed that the words "No person enrolled at this number" are to be found not infrequently opposite consecutive numbers on the pages of the printed rolls; and you are requested to advise the Department whether such words were substituted for the names of individuals appearing on disapproved schedules, and if such is the case, whether such disapproved schedules were approved at any time by the Department; also whether favorable decisions were ever rendered by the Department as to such persons prior to their enrollment upon such disapproved schedules.

-4-

For the sake of expedition, a partial report should be rendered at once concerning the said Elizabeth Allen and the various members of the Grutchfield family named above. The other matters referred to herein can be disposed of by subsequent reports.

Very respectfully,

Jesse H. Wilson,

Assistant Secretary.

Through the
Indian Office.

Land
31790-1909.
J. E. D.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS.
Washington.

Jun 25, 1909.

Enrollment case of
Wm. B. Brown et al.

The Commissioner

to the Five Civilized Tribes.

Muskogee, Oklahoma.

Sir:

Referring to your report of April 20, 1909, relative to the consolidated Choctaw enrollment case of William B. Brown et al., you are advised, that on June 15, 1909, the Department held that the case mentioned was not analogous to that of John E. Goldsby, and did not come within the principles announced by the Supreme Court of the United States in that case, (211 U. S. 249).

The Department, therefore, declined to take any action looking to the enrollment of any of the applicants in the consolidated case of William B. Brown et al.

A copy of approved Office letter of May 17, 1909, is inclosed for your further information.

You are requested to notify the parties in interest.

Very respectfully,

J. H. Dertch,

Acting Chief Clerk.

MRK-19
2538.

D-7339

Land
S1790-1909
J E D

DEPARTMENT OF THE INTERIOR
OFFICE OF INDIAN AFFAIRS
Washington.

G.R.
J.W.
J.F. Jr.
W.R.D.

Enrollment case of
William B. Brown et al.

May 17, 1909.

The Honorable,

The Secretary of the Interior.

Sir:

Referring to Department letter of March 1, 1909, there is transmitted herewith a report dated April 20, 1909, from the Commissioner to the Five Civilized Tribes, relative to the enrollment case of William B. Brown et al. The history of the claim is set out fully in the reports enclosed.

The records shows, among other things, that on August 13, 1906, the Commissioner to the Five Civilized Tribes rendered a decision that Nancy A. Brown, Bettie McCarty, Mary Ethel McCarty, William N. Brown, Sarah Johnston, Becky Brown, Mary Johnston, Mamie (or Minnie) Hudson, Alice Brown, George Brown, Susie Brown, William Herman Johnston, Minnie Gertrude Brown, Henry Niten Brown, Fannie C. Brown, Caswell M. Brown, Maudie Brown, Willie Brown, Albert Knighington Brown, Polly A. Peck, Florence Peck, Oscar Peck Benjamin Peck, Andrew Peck, Otis Dewey Peck, Virgie Peck, George E. Brown, Willie Anna Brown, James B. Nichols, Della May Scott, Nancy V. Nichols, John W. B. Nichols, Louie Herman Nichols, Golds Ula Nichols, Orin M.

Nichols, James W. Nichols, Maggie M. Nichols, Mettie Myrtle Nichols and Lonie A. Nichols should be enrolled as citizens by blood and William B. Brown, Nancy Brown, Eli W. Brown, Amanda Brown, Sarah Brown, Nancy C. Nichols, Bessie Nichols, Amanda M. Nichols and Osa Nichols as citizens by intermarriage of the Choctaw Nation under the provisions of the Acts of Congress approved June 28, 1898 (30 Stat. L. 495) and July 1, 1902 (32 Stat., L. 641).

The applications for the enrollment of William A. McCarty, Ollie McCarty, Oscar Lee Johnston, Willie Clarence Brown, Roy Lester Johnston, Edna Arvel Johnston, Teddy Golden Johnston, Rubie Dill Brown, Annie Jewell Brown, Prebble Peck, Cassie Brown, Goldie Brown, Nema May Scott, Lita Lois Scott, Sylvie Jewel Nichols and Cora Lee Nichols were also granted under the provisions of the Act of Congress approved April 26, 1906 (34 Stat. L. 137).

The application for the enrollment of Andrew J. Peck as a citizen by intermarriage was denied and the application for the enrollment of Daphne Myrtle Nichols as a citizen by blood of the Choctaw Nation was dismissed.

It appears that on August 14, 1906, the record in the case, together with the decision, was forwarded by the Commissioner to the Five Civilized Tribes, and that on February 7, 1907, he transmitted to the Department schedule of citizens of the Choctaw Nation by blood and by marriage, containing the names of persons who were favorably passed upon by

L. 31790-3

him in his decision of August 13, 1906, in this case. It appears also that on February 26, 1907, the Commissioner, referring to Department letter of February 23, 1907, invited the Department's attention to the above-mentioned schedules, and to the Choctaw enrollment case of William B. Brown, et al, and recommended, in view of the opinion of the Attorney General dated February 19, 1907, in the Loula West and other cases, that his decision of August 13, 1906, be not approved, and that the schedules referred to be disapproved.

On March 1, 1907, the Department reversed the decision of the Commissioner so far as it was favorable to the applicants, and disapproved the schedules containing their names.

The Commissioner to the Five Civilized Tribes reports further that his office has no record of any favorable decision of the Department as to the persons included in this case.

It appears also that their names have never been placed upon any roll or schedule of citizens of the Choctaw Nation prepared by the Commissioner to the Five Civilized Tribes and approved by the Department.

The Office concurs in the view of the Commissioner to the Five Civilized Tribes that as the record in the case is a complete one, the applicants could add nothing material thereto at this time, and to have them appear at his office

to give further testimony would only make additional expense for them and work a hardship without any benefit accruing therefrom.

On April 9, 1909, the Office requested the Commissioner to the Five Civilized Tribes to take no steps pending the preparation of his report concerning the enrollment case of William B. Brown et al toward the issuance of a patent to any adverse party in interest to the lands occupied by the applicants in the above mentioned case. The Commissioner was also requested to instruct the United States Indian Agent, at Union Agency, to suspend action, if any was contemplated, toward dispossessing the applicants of the lands occupied by them until further advised by the Department.

The Commissioner reports that no formal allotments were made to the persons included in the above case, but that applications were made in their behalf for certain lands which were involved in Chickasaw contest cases. The contests in behalf of these claimants were dismissed by the Commissioner to the Five Civilized Tribes, and on October 12, 1907, the Office held that the action of the Commissioner was proper, and recommended that he be advised that all applications for allotments in behalf of these persons should be denied.

This recommendation was approved by the Department on October 14, 1907. It appears from the report of the Commissioner to the Five Civilized Tribes that the lands in contest

were awarded to the contestees and patents therefor were recorded and delivered to them. Title having passed to the contestees, the Department is now without authority to place or permit the applicants in the William B. Brown case to remain in possession of the lands covered by the patents issued to the contestees, even in the event of the Department rendering a favorable decision relative to their enrollment.

The Commissioner reports that his office has no record of the applicants in the case mentioned holding or claiming possession of any other lands in the Choctaw or Chickasaw Nations, but says that if they are in occupancy of such other lands his office will, upon receipt of a description thereof, make a record of the claims pending further action by the Department.

The Office is of the opinion that the case of William B. Brown et al., is not analogous to that of John M. Holdaby, and that it does not come within the principles announced by the Supreme Court of the United States in its decision of November 30, 1908, in that case (211 U. S. 249)

It is therefore recommended that the Department take no action looking to the enrollment of any of the applicants included in the consolidated case of William B. Brown, et al.

The record in the case; and other papers pertaining thereto, are transmitted herewith for your further information.

Very respectfully,

R. G. Valentine,
Acting Commissioner.

RES 11

891

WCP June 15, 1909. JWH

Approved:
Frank Pierce,
First Assistant Secretary.

Muskogee, Oklahoma, June 29, 1909.

Mr. John W. B. Nichols,
Cimarrone, Oklahoma.

Sir:

You are hereby notified that on June 15, 1909, the Secretary of the Interior held that the Chectaw enrollment case of William B. Brown et al., with which your case was consolidated, was not analogous to that of John E. Goldsby (211 U. S. 249), and declined to take any action looking to the enrollment of the applicants therein under the opinion of the Supreme Court of the United States of November 30, 1908, in said Goldsby case.

Respectfully,

WHA-KB.

Commissioner.

SPECIAL.

J.P.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

JHR

D.C. 2920-1907.
I.T.D. 25868-1906.
818-1907.

January 15, 1907.

LRS

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

Referring to departmental letters of January 9 and 14, 1907,
in the matter of the application for the enrollment of Mattie
Shockley et al., as citizens by blood of the Choctaw Nation,
you are advised that by direction of the President the case will
be submitted to the Attorney-General for his opinion. You will
suspend action relative to these claimants until further advised.

Respectfully,

Thos Ryan

First Assistant Secretary.

Muskogee, Indian Territory, Sept. 1st, 1900.

Mr. John W. B. Nichols,

Ceresmiche, Indian Territory.

Dear Sir:

The Commission is in receipt of the application for enrollment as a citizen of the Choctaw Nation of Louis Herman Nichols, the infant son of John W. B. and Bessie Nichols, born August 19th, 1900 and the same being in proper form has been duly filed with the records of the Commission and the said child duly listed for enrollment as a citizen of the Choctaw Nation.

Yours truly,

Acting Chairman.

7-5097

Choctaw 5907.

Muskogee, Indian Territory? April 6, 1905.

John W. B. Nichols,

Comanche, Indian Territory.

Dear Sir:

Receipt is hereby acknowledged of the affidavits of Bessie Nichols and J. P. Bartley to the birth of Silvie Jewell Nichols, daughter of John W. B. and Bessie Nichols, August, 26, 1903,

You are advised that on November 29, 1904, the Choctaw and Chickasaw Citizenship Court denied your right to citizenship in the Choctaw Nation, and on December 12, 1904, the Commission dismissed the applications for the enrollment of your wife, Bessie Nichols, as an intermarried citizen of the Choctaw Nation, and for the enrollment of your children, Lohie Herman and Golda Ula Nichols as citizens by blood of said nation.

The Commission is authorized by the Act of Congress approved March 3, 1905, to receive applications for the enrollment of children born to enrolled citizens by blood of the Choctaw and Chickasaw Nations prior to March 4, 1905.

You will therefore see that the Commission is without authority to enroll your child.

Respectfully,

Commissioner in Charge.

7-5097

Muskogee, Indian Territory, June 13, 1906.

John W. B. Nichols,

Comanche, Indian Territory.

Dear Sir:

Receipt is hereby acknowledged of the affidavits of Bessie Nichols and Dr. C. H. Howell to the birth of Louie Herman Nichols and Golda Wla Nichols, children of John W. B. and Bessie Nichols, August 19, 1900 and December 15, 1901; also affidavits of Bessie Nichols and J. P. Bartley to the birth of Sylva Jewel Nichols, child of John W. B. and Bessie Nichols, August 26, 1903.

Respectfully,

Commissioner.



Muskogee, Indian Territory, December 27, 1901.

John W. B. Nichols,

Comanche, Indian Territory.

Dear Sir:

Receipt is hereby acknowledged of the application for enrollment as a citizen of the Choctaw Nation of Golda Ula Nichols, the infant daughter of John W. B. and Bessie Nichols, born December 15th, 1901, and the same being in proper form has been duly filed with the records of this office and the child listed for enrollment as a citizen of the Choctaw Nation.

Yours truly,

Commissioner in Charge.

7-6097

Land
25228-08
17077-08

JFR

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON, D. C., Mar. 6, 09.

Respectfully referred to the Commissioner
to the Five Civilized Tribes, for
appropriate action.

John Frances, Jr.
Acting Chief Land Division.

1 letter dated Mar. 1, 09.

4
B 400-1909

Washoe, Shoshone, April 20, 1909.

Subject:

Requesting report relative
to petition of Wm. B. Brown
et al. for enrollment as
citizens of the Cheateau
Nation.

The Honorable,

The Secretary of the Interior,

Sir:

Receipt is hereby acknowledged of Indian Office letter of
April 9, 1909 (Land 23090-1909) transmitting petition of Wm.
B. Brown, et al. for enrollment as citizens of the Cheateau
Nation. This office is also requested to report specially
whether the names of any of the persons in this petition ap-
pear upon any tribal rolls of the Cheateau Nation or upon any
roll prepared by the Commission to the Five Civilized Tribes
and approved by the Secretary of the Interior.

March 1, 1908, the Department also addressed a letter to
this office requesting reports as to all persons whose names
may have been upon disapproved schedules and at whose numbers
in the printed rolls appears the notation "No person enrolled
at this number."

Secretary 2

The case of William E. Brown is one of the cases referred to in Departmental letter of March 1, 1909 and the report is made to the Secretary of the Interior, through the Indian Office, with the view of complying with both requests.

I have the honor to report as follows, relative to the case of William E. Brown and the other members of his family who were included in the decision in the consolidated Cheatew case of William E. Brown, et al.:

It appears from the records of this office that on September 9, 1896, in the case entitled Nancy Cooper et al. versus the Cheatew Nation, 1896 Cheatew Citizenship Case Number 1418, original application was made to the Commission to the Five Civilized Tribes, under the provisions of the Act of Congress approved June 10, 1896 (29 Stat., 321), for admission to citizenship in the Cheatew Nation of the applicants, Nancy A. Brown (as Nancy Alice Brown), Bettie McCarty (as Rebecca Elizabeth Brown), William E. Brown (as William Hiten Brown), Sarah Johnston (as Sarah Elizabeth Brown), Becky Brown (as Rebecca Catherine Brown), Mary Brown (as Mary Arrillie Brown), Mamie (or Minnie) Hudson (as Minnie Ann Brown), Alice Brown, George Brown (as George Montgomery Brown), Cassell E. Brown, Maude Brown (as Maude E. Brown), Willie Brown (as William C. Brown), Polly A. Peck (as Polly Ann Peck), Florence

Secretary 3

Peck (as Minnie W. Peck), Oscar Peck (as Oscar W. Peck), Benjamin Peck (as Benjamin G. Peck), Andrew Peck, George O. Brown, Willie Emma Brown, James B. Nichols, (as James Braten Nichols), Della May Scott (as Mary Della May Nichols), Nancy V. Nichols (as Hattie Velma Nichols), John W. B. Nichols (as John William Bethuel Nichols), Orrin H. Nichols (as Orrin Mayberry Nichols), James V. Nichols (as James Willis Nichols), Maggie M. Nichols (as Maggie May Nichols), Mattie Myrtle Nichols, Louis A. Nichols (as Louis M. Nichols), as citizens by blood, and for the admission of William B. Brown, Nancy J. Brown (as Nancy Jane Brown), Amanda Brown, Andrew J. Peck (as A. J. Peck), Sarah Brown, Nancy C. Nichols (as Nancy Caroline Nichols), and Amanda M. Nichols (as Amanda Melvina Nichols), as citizens by intermarriage of said nation; and that on December 8, 1896, said Commission rendered its decision denying the applications for citizenship of the above named persons.

From this decision of the Commission an appeal was taken to the United States Court for the Southern District of Indian Territory, which court on December 20, 1897, in the case entitled Nancy J. Cooper, et al. versus the Choctaw Nation, Case Number 26 on the Citizenship docket, admitted, Nancy A. Brown (as Nancy Alice Brown), Mattie McCarty (as Mattie Brown), Sarah Johnston (as Sarah Brown), Becky Brown,

Secretary 4

Mary Brown, Mamie (or Minnie) Hudson (as Mamie Brown), Alice Brown, George Brown, Edie Brown, Caswell W. Brown (as Caswell Marion Brown), Mamie Brown, Willie Brown, Polly A. Peck (as Polly Ann Peck), Florence Peck, Oscar Peck, Benjamin Peck (as Benjamin Grant Peck), Andrew Peck, George G. Brown, Willie Emma Brown, James E. Nichols (as James Bruton Nichols), Ella May Scott (as Ella May Nichols), Hester V. Nichols (as Hester Verner Nichols), Orin M. Nichols (as Orin Ezyberry Nichols), James W. Nichols (as James Willie Nichols), Maggie W. Nichols (as Maggie Kay Nichols), Nettie Myrtle Nichols (as Myrtle Nichols), and Lonie A. Nichols (as Lonie Alta Nichols) as citizens by blood of the Cherokee Nation, and William B. Brown (as William Bluford Brown), Andrew J. Peck (as Andrew Jackson Peck), and Nancy C. Nichols (as Nancy Caroline Nichols) as citizens by intermarriage of said nation, and denied the applications for the admission of Nancy J. Brown (as Nancy Jane Brown), Sarah Brown and Amanda E. Nichols (as Amanda Melvina Nichols) as citizens by intermarriage of the Cherokee Nation. The name of the applicant, Mamie Brown, was interpolated in the judgment of said court, she not having been an applicant before the Commission to the New Civilized Tribes in 1894.

March 12, 1898, this case again came before the United States Court upon a motion of the plaintiffs' attorneys to

Secretary 8

correct the judgment of said court rendered December 20, 1897, and the court thereupon ordered said judgment corrected so as to admit the applicants, Nancy J. Brown (as Nancy Jane Brown), Sarah Brown, Amanda H. Nichols (as Amanda Melvina Nichols) as citizens by intermarriage of the Choctaw Nation.

September 28, 1898, said court rendered a supplemental judgment admitting Amanda Brown as a citizen by intermarriage of the Choctaw Nation.

January 17, 1900, this cause again came before the court upon a motion of the defendant to strike out of the judgment theretofore rendered certain names improperly admitted to citizenship, and the court ordered that the names of Susie Brown, Andrew J. Peck (as Andrew Jackson Peck), Bettie McCarty (as Bettie Brown) and Becky Brown be stricken from said former judgment.

Subsequently, upon the representation of the plaintiffs' attorneys that certain persons who were original applicants were by oversight or mistake left out of the original judgment theretofore rendered, the court ordered that the applicants, Nancy Jane Brown (as Nancy Jane Brown), Sarah Brown, Amanda Brown, Amanda H. Nichols and Rebecca H. Brown be admitted to citizenship in the Choctaw Nation.

December 17, 1902, the Choctaw and Chickasaw Citizenship

Secretary 2

Court, created under the provisions of the Act of Congress approved July 1, 1902 (32 Stat., 641), "set aside, annulled, vacated and held for naught" the aforesaid judgment of the United States Court for the Southern District of the Indian Territory.

The record in this case was subsequently certified to the Cheateau and Chickasaw Citizenship Court for a trial de novo, which court, November 29, 1904, in the case entitled William Heighston Brown, et al. versus the Cheateau and Chickasaw Nations, Number 73 on the Tishomingo Docket, ordered, adjudged and decreed that the petition of the plaintiffs be denied and that they be declared not citizens of the Cheateau Nation, and not entitled to enrollment as such citizens, and not entitled to any rights whatever flowing therefrom.

December 12, 1904, orders were entered of record by the Commission to the Five Civilized Tribes dismissing the applications for the enrollment of Mary E. McCarty, William Brown Johnston, Minnie Gertrude Brown, Henry Hiten Brown, Elbert Knightington Brown, Otis Bway Peck, Virgie Peck, Louis Herman Nichols and Golda Via Nichols as citizens by blood of the Cheateau Nation and March 15, 1905, and order was entered of record dismissing the application for the enrollment of Fannie C. Brown as a citizen by blood of said nation.

Secretary 7

for the reason that the parents of these children had been denied by a decree of the Choctaw and Chickasaw Citizenship Court,

December 12, 1904, orders were entered of record by the Commission dismissing the applications for the enrollment of Eli V. Brown, Beaulie Nichols and Osa Nichols as citizens by intermarriage of the Choctaw Nation for the reason that the persons through whom they claimed their rights had been denied by a decree of the Choctaw and Chickasaw Citizenship Court.

March 30, 1905, the Commission to the Five Civilized Tribes denied the application for the enrollment of Beaulie Brown as a citizen by blood of the Choctaw Nation, and on April 6, 1906 (I T D 3610-1905) the Department set aside this decision of the Commission and returned the record to this office for investigation upon its merits.

Under the regulations adopted by the Commissioner to the Five Civilized Tribes of January 2, 1906, there were filed on February 4, 1906, by Cruse, Cruse & Blackmore, attorneys for the petitioners, Ardmore, Indian Territory, petitions praying that William A. Brown, Nancy A. Brown, Minnie Hudson, Sarah Johnston, Oscar Lee Johnston, William Brown Johnston, Rebecca Brown, Minnie Gertrude Brown, Henry

Secretary 2

Nites Brown, Abbie Hill Brown, Eli V. Brown, Mary A. Johnston, Ray Lester Johnston, Mrs. K. Johnston, Rebecca McCarty, William A. McCarty, Mary H. McCarty, William H. Brown, Nancy Jane Brown, George Brown, Alice Brown, Essie Brown, Clatus Brown, Clarence Brown, A. J. Peck, Felly Ann Peck, Minnie Peck, Oscar Sherman Peck, Benjamin Grant Peck, Andrew Peck, O. D. Peck, Virgie Peck, Probable Peck, C. K. Brown, Amanda Brown, Randy Brown, William Brown, Elbert E. Brown, Annie Jewel Brown, George G. Brown, Sarah Brown, Willie Emma Brown, Cassie Brown, Goldie Brown, J. B. Nichols, Nancy Nichols, Elma Nichols, John W. B. Nichols, Bessie Eaton Nichols, Louis Norman Nichols, GoldaBula Nichols, Silva Jewel Nichols, Della May Scott, EmmaScott, Orin H. Nichols, Amanda Nichols, Myrtle Nichols, Louis Nichols, James W. Nichols, Osa Nichols, Cera Lee Nichols and Maggie Angel be enrolled as citizens of the Chestate Nation,

April 16, 1906, the principal petitioners, their attorneys of record and the attorneys for the Chestate and Chickasaw Nations, were advised that a hearing would be had in this matter at the office of the Commissioner to the Five Civilized Tribes, Muskogee, Indian Territory, Monday, May 14, 1906, at nine o'clock A. M. and on the same date, William H. Brown, father of Essie Brown, Grace, Grace & Nickmore, and Hester

Secretary 9

Field, McMurray & Connick, were advised that on April 6, 1906, the Department had set aside the decision of the Commission to the Five Civilized Tribes of March 30, 1905, and returned the record with instructions that a full investigation be made of the rights of the said Samie Brown to enrollment as a citizen by blood of the Choctaw Nation, and that such testimony and evidence would be received at the date of the hearing on the petition.

On motion of attorneys for applicants the hearing was continued until May 21, 1906, on which date proceedings were had in the matter of said petition in pursuance to the notices above mentioned.

At the hearing William E. Brown, Cassell M. Brown, James A. Nichols and Orin M. Nichols testified that in 1894, they, together with the other applicants herein who were living at that time, petitioned the Choctaw Council for admission as citizens of the Choctaw Nation; that no action having been taken by the Council as to their case they, in 1896, appeared before the Choctaw Census Commission and made application to be enrolled upon the 1896 Choctaw Census Roll; that some time in January, 1897, they received a certificate from the Secretary of the Choctaw Advisory Board, wherein it appeared that they had been enrolled upon the 1896 Choctaw Census Roll.

Secretary 10

It appears that the applicants, William E. Brown, William H. Brown, Nancy J. Brown, Cassell M. Brown, Amanda Brown, Fanny Ann Peck, Andrew J. Peck, George G. Brown, Sarah Brown, Nancy A. Brown, Bettie McCarty, Sarah Johnston, Becky Brown, Mary Johnston, Mamie (or Minnie) Hudson, Alice Brown, George Brown, Essie Brown, Mandie Brown, Willie Brown, Florence Peck, Oscar Peck, Benjamin Peck, Andrew Peck, James E. Nichols, Nancy G. Nichols, Orin M. Nichols, Amanda M. Nichols, John W. B. Nichols, Della May Scott, Nancy V. Nichols, James W. Nichols, Maggie M. Nichols, Nettie Myrtle Nichols and Lenie A. Nichols are identified upon the 1896 Census Roll of the Choctaw Nation, Blue County.

August 11, 1906, the Commissioner to the Five Civilized Tribes rendered a decision, in accordance with the opinion of the Assistant Attorney General for the Department of the Interior of February 10, 1906 (I I D 10353-1904) and December 6, 1906 (I I D 1691-1905) in the case of Lula West, holding that the action of the Commission to the Five Civilized Tribes and the subsequent action of the United States Court for the Southern District of Indian Territory and the Choctaw and Chickasaw Citizenship Court upon the right of the applicants who applied to said Commission in 1896, with the exception of Andrew J. Peck, was without authority of law.

Secretary II

and of no force and effect upon the status of said applicants as citizens of the Choctaw Nation.

He also reminded the members of the Commission to the Five Civilized Tribes of December 12, 1906, and March 10, 1908, dismissing the applications for the enrollment of Mary E. McCarty, William Brown Johnston, Minnie Gertrude Brown, Fannie C. Brown, Henry Niten Brown, Elbert Knightington Brown, Otis Dewey Peck, Virgie Peck, Louis Norman Nichols and Golda Ula Nichols as citizens by blood of the Choctaw Nation and Eli W. Brown, Bessie Nichols and Osa Nichols as citizens by intermarriage of the Choctaw Nation.

The Commissioner to the Five Civilized Tribes further held, in accordance with the opinions of the Assistant Attorney General for the Department of the Interior of March 3, 1906 (I T D 187-1906) and March 10, 1906 (I T D 9903-1906) that Henry A. Brown, Mattie McCarty, Mary Ethel McCarty, William E. Brown, Brock Johnston, Brock Brown, Mary Johnston, Annie (or Minnie) Hudson, Alice Brown, George Brown, Orel Brown, William Brown Johnston, Minnie Gertrude Brown, Henry Niten Brown, Fannie C. Brown, Cassell E. Brown, Thedie Brown, Willie Brown, Elbert Knightington Brown, Polly A. Peck, Florence Peck, Oscar Peck, Benjamin Peck, Andrew Peck, Otis Dewey

Secretary 12

Peck, Virgin Peck, George B. Brown, Willie Emma Brown, James
H. Nichols, Della May Scott, Nancy V. Nichols, John W. H. Nichols,
Louie Herman Nichols, Golda W. Nichols, Orin H. Nichols,
James W. Nichols, Maggie M. Nichols, Nettie Myrtle Nichols,
and Leon A. Nichols should be enrolled as citizens by blood
and William B. Brown, Nancy Brown, Eli W. Brown, Amanda
Brown, Sarah Brown, Nancy C. Nichols, Dottie Nichols, Amanda
H. Nichols and Ora Nichols as citizens by intermarriage
of the Choctaw Nation under the provisions of the Acts of
Congress approved June 18, 1898 (30 Stat., 498) and July 1,
1902 (32 Stat., 641).

The applications for the enrollment of William A. McCarty,
Ellie McCarty, Oscar Lee Johnston, Willie Clarence Brown,
Ray Lester Johnston, Edna Arvek Johnston, Teddy Gordon
Johnston, Edie Dill Brown, Annie Jewell Brown, Prebble Peck
Carrie Brown, Edie Brown, Nema May Scott, Lita Lois Scott,
Sylvia Jewel Nichols and Cera Lee Nichols were also granted
under the provisions of the Act of Congress approved April
26, 1906 (34 Stat., 137).

The application for the enrollment of Andrew J. Peck as
a citizen by intermarriage was denied and the application for
the enrollment of Eugene Myrtle Nichols as a citizen by blood
of the Choctaw Nation was dismissed.

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August 14, 1906, the record in this case, together with the decision of August 13, 1906, was transmitted to the Department.

February 7, 1907, there were transmitted to the Secretary of the Interior schedules of citizens by blood and marriage of the Choctaw Nation containing the names of the persons who were favorably passed upon by the Commissioner to the Five Civilized Tribes August 13, 1906, in the Choctaw enrollment case of William B. Brown, et al., as follows:

Citizens by blood . . .	Nos. 1611 to 1659, inclusive.
Citizens by marriage /	Nos. 1659 to 1672, inclusive.
Minor citizens by blood	Nos. 857 to 872, inclusive.

This case was analogous to the case of Mattie Shockley, et al. (Louisa West case) in which this office had been directed to suspend action until the Attorney General had passed upon the petitions involved in that case, but inasmuch as the time within which persons could be enrolled and their enrollment approved by the Secretary of the Interior under the provisions of the Act of Congress approved April 22, 1906, was becoming very short, the schedules above described were prepared by this office without waiting for the opinion of the Attorney General and were forwarded to the Department in order that, if the opinion of the Attorney General were favorable, the rights of these applicants might be protected without

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delay, and this office requested, in the event of such favorable opinion of the Attorney General, that these schedules be approved by the Secretary of the Interior.

February 26, 1907, referring to Departmental letter of February 23, 1907 (I T D 4844-1907) requesting this office to forward a list of those persons whose enrollment should be cancelled in view of the opinion of the Attorney General of February 19, 1907, in the Choctaw enrollment cases of Louis Vest and William C. Thompson, the Commissioner to the Five Civilized Tribes called the attention of the Department to the schedules above described which were forwarded February 7, 1907, and advised that this case was analogous to the case of Louis Vest. It was, therefore, recommended that the decision of August 13, 1906, be not approved by the Department and that the schedules transmitted with office letter of February 7, 1907, be disapproved by the Secretary of the Interior.

February 23, 1907 (Land 71868-1906, 220,14112-1907)
the Indian Office forwarded to the Department the record in the case of William B. Brown, et al. together with the schedules transmitted February 7, 1907, and recommended, in view of the opinion of the Attorney General of February 19, 1907, that the decision of the Commissioner of August 13, 1906, in

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as far as it was favorable to the applicants, he reversed and the schedule disapproved, which was done by the Department March 1, 1907 (I T D 5742-1907).

This office has no record of any favorable decision of the Department as to the persons included in this consolidated case.

No formal allotments were made to the persons included in this case but applications were made on their behalf for certain lands which were involved in Chickasaw contest cases. Subsequent to March 4, 1907, these contests were dismissed and on August 31, 1907, a motion to reinstate said contests was denied.

August 29, 1907, the Department advised this office that by letter of August 5, 1907, counsel for the claimants in the case of William B. Brown, et al. requested that the order of the Department of June 14, 1907, in the case of William C. Thompson and others, suspending action on claims to allotments of lands be made applicable to them.

September 20, 1907, this office reported that it did not appear that the claimants in the case of William B. Brown, et al. possessed the same status as the claimants in the case of William C. Thompson, et al. as their names had never been upon an approved roll, but that it appeared they occupied

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the same status as the persons included in the case of John H. Gamblin and the case of Angus A. Spring.

October 12, 1907 (I T N 77022-1907) the Indian Office held that the action of the Commissioner to the Five Civilized Tribes in dismissing the contests on behalf of these claimants, and in refusing to reinstate the same, was proper and recommended that he be advised that all applications for allotments on behalf of these persons should be denied and this recommendation was approved by the Department October 14, 1907.

Following these instructions of the Department the lands in contest were awarded to the contestees, and patents therefor were recorded and delivered to them. It is believed, therefore, that these persons, in the event of a favorable decision relative to their enrollment, could not recover the land referred to, and if they are holding or claiming other land this office has no record of such claim.

If they are now in possession of other lands in the Choctaw and Chickasaw Nations, this office will, however, upon the receipt of description thereof, make a record of their claim to the land, pending further action by the Department.

I have further to report that the record in this case is full and complete and it is believed the applicants could

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add nothing material thereto at this time, and that it would work an unjustifiable hardship upon them to notify them now to appear and give further testimony in this case and force upon them the expense of a hearing at this office.

I have not, therefore, forwarded the petitions referred to in Departmental letter of March 15, 1909 and Indian Office letter of April 9, 1909, but will await specific instruction from the Department as to its wishes in the matter in accordance with my request of April 4, 1909, in the Kattie Cheekley case.

If it is the desire of the Department that notices be forwarded in this case, however, this office will proceed to notify the applicants thereof immediately upon receipt of advice from the Department and will make supplemental report after their replies have been received.

The petition inclosed with Indian Office letter of April 9, 1909, is herewith returned.

Respectfully,

Through the Commissioner
of Indian Affairs.

Commissioner.

7-6025-

Acc. 5000/10

2/18/15-

on 2/18/15

Choctaw 6026

Della May Scott

6026

Transferred from Choc card 5100

See Petition # C-34

Duplicate record bound

8-13-06 granted

3-1-07 decision of Commission reversed
and schedules containing name of this
applicant disapproved

3-1-09 Dept requests report

4-20-09 Report To Dept

6-15-09 Dept holds case not analogous
To Goldsby case and declines to take
action looking to enrollment of
applicant

6-29-09 Parties notified

O.L.J.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of
William B. Brown, et al., as citizens of the Choctaw Nation, con-
solidating the applications of

William B. Brown, et al.	7-5094,
William N. Brown, et al.	7-5040,
Elia W. Brown, et al.	7-D-432,
Cassell M. Brown, et al.	7-5046
Andrew J. Peak, et al.	7-5042
George G. Brown, et al.	7-5095
James B. Nichols, et al.	7-5100,
John V. B. Nichols, et al.	7-5097
Orin M. Nichols, et al.	7-5051,
Osa Nichols, et al.	7-D-509.

DECISION.

It appears from the census card records in this case that on September 22, 1898, application was made to the Commission to the Five Civilized Tribes for the enrollment of William B. Brown (sixty-one years of age), as a citizen by intermarriage of the Choctaw Nation, and for the enrollment of his two children, Nancy A. Brown (twenty-three years of age) and Bettie Brown, nee McCarty (nineteen years of age), as citizens by blood of the said nation; on September 22, 1898, for the enrollment of William N. Brown (thirty-nine years of age), and his seven minor children, Sarah Brown, nee Johnston (eighteen years of age), Becky Brown (sixteen years of age), Mary Brown, nee Johnston (thirteen years of age), Maudie (or Minnie)

Brown, now Hudson (eleven years of age), Alice Brown (eight years of age), George Brown (five years of age) and Essie Brown (one year of age), as citizens by blood of the Choctaw Nation, and for the enrollment of Nancy Brown (thirty-six years of age) as a citizen by intermarriage of said nation; on September 8, 1898, for the enrollment of Eli W. Brown (twenty-eight years of age) as a citizen by intermarriage of the Choctaw Nation; on September 21, 1898, for the enrollment of Caswell W. Brown (thirty-four years of age), and his two minor children, Maudie (ten years of age) and Willie Brown (six years of age), as citizens by blood of the Choctaw Nation, and on October 18, 1898, for the enrollment of his wife, Amanda Brown (thirty-one years of age), as a citizen by intermarriage of said nation; on September 22, 1898, for the enrollment of Andrew J. Peck (thirty-two years of age) as a citizen by intermarriage of the Choctaw Nation, and for the enrollment of his wife, Polly A. Peck (thirty years of age), and his five minor children, Florence (nine years of age), Oscar (seven years of age), Benjamin G. (five years of age), Andrew (three years of age), and Otis Dewey Peck two months of age), as citizens by blood of said nation; on September 22, 1898, for the enrollment of George G. Brown (twenty-six years of age), and his minor daughter, Willie Anna Brown (three years of age), as citizens by blood of the Choctaw Nation, and for the enrollment of his wife, Sarah Brown (twenty-one years of age), as a citizen by intermarriage of said nation; on September 22, 1898, for the enrollment of James N. Nichols (forty-eight years of age), and his two minor children, Della May Nichols, now Scott (fourteen years of age), and Nancy V. Nichols (seven years of age), as citizens by blood of the Choctaw Nation, and for the enrollment of his wife, Nancy C. Nichols, (forty-two years of age), as a

citizens by intermarriage of said nation; on September 22, 1898 for the enrollment of John W. B. Nichols (twenty-four years of age) as a citizen by blood of the Choctaw Nation, and for the enrollment of his wife, Bessie Nichols (eighteen years of age), as a citizen by intermarriage of said nation; on September 22, 1898, for the enrollment of Orin M. Nichols (forty-four years of age), and his four minor children, James W. (eighteen years of age), Maggie M. (twelve years of age), Mattie Myrtle (eight years of age), and Lenie A. Nichols (four years of age), as citizens by blood of the Choctaw Nation, and for the enrollment of his wife, Amanda M. Nichols (thirty-eight years of age), as a citizen by intermarriage of said nation; and on September 25, 1898, for the enrollment of Osa Nichols (seventeen years of age) as a citizen by intermarriage of the Choctaw Nation.

Applications were subsequently made for the enrollment of the following minor applicants as citizens by blood of the Choctaw Nation: On January 20, 1902, for the enrollment of Mary Ethel McCarty (born December 8, 1901); on May 31, 1904, for the enrollment of William A. McCarty (born April 21, 1904) and Ollie McCarty (born February 14, 1904); on October 13, 1900, for the enrollment of William Brown Johnston (born June 30, 1900); on October 19, 1900, for the enrollment of Minnie Gertrude Brown (born August 13, 1900); on May 16, 1901, for the enrollment of Yessie C. Brown (born February 11, 1901); on April 29, 1905, for the enrollment of Oscar Lee Johnston (born November 14, 1902); on April 29, 1905, for the enrollment of Willie Clarence Brown (born April 8, 1903); on July 12, 1902, for the enrollment

Henry Hiten Brown, (born May 21, 1902); on April 29, 1905, for the enrollment of Roy Lester Johnston (born October 28, 1903); on May 21, 1906, for the enrollment of Nina Arvel Johnston (born March 21, 1906); on April 14, 1905, for the enrollment of Rubie Dill Brown (born February 12, 1904); in 1899, for the enrollment of Elbert Knightington Brown (born October 8, 1899); on April 7, 1905, for the enrollment of Annie Jewell Brown (born December 2, 1902); on December 10, 1901, for the enrollment of Virgie Peck (born October 11, 1901); on April 8, 1905, for the enrollment of Prebble Peck (born February 19, 1904); on May 21, 1906, for the enrollment of Cassie Brown (born May 30, 1900) and Goldie Brown (born September 5, 1904); on April 17, 1905, for the enrollment of Nema May Scott (born May 15, 1903) and Lita Lois Scott (born February 1, 1906); on September 1, 1900, for the enrollment of Louie Herman Nichols (born August 19, 1900); on December 27, 1901, for the enrollment of Golda Ula Nichols (born September 15, 1901); on April 1, 1905, for the enrollment of Sylvie Jewel Nichols (born August 26, 1903); on April 14, 1905, for the enrollment of Cora Lee Nichols (born November 6, 1902); on April 6, 1901, for the enrollment of Daphne Myrtle Nichols (born February 20, 1901); and on May 21, 1906, for the enrollment of Teddy Holden Johnston (born June 15, 1905).

It appears from the records of the Commission to the Five Civilized Tribes that on September 9, 1896, in the case entitled "Nancy Cooper, et al. vs. Choctaw Nation" (1896 Choctaw Citizenship Docket, Case No. 1412), original application was made to said Commission, under the provisions of the Act of Congress approved June 10, 1896 (29 Stats., 321), for admission to

citizenship in the Choctaw Nation of the applicants, Nancy A. Brown (as Nancy Alice Brown), Nettie McCarty (as Rebecca Elizabeth Brown), William H. Brown (as William Hiten Brown), Sarah Johnston (as Sarah Elizabeth Brown), Neddy Brown (as Rebecca Catherine Brown), Mary Brown (as Mary Arrillie Brown), Mamie (or Minnie) Hudson (as Minnie Ann Brown), Alice Brown, George Brown (as George Montgomery Brown), Caswell H. Brown, Maudie Brown (as Maudy H. Brown), Willie Brown (as William G. Brown), Pelly A. Peck (as Pelly Ann Peck), Florence Peck (as Minnie F. Peck), Oscar Peck (as Oscar S. Peck), Benjamin Peck (as Benjamin G. Peck), Andrew Peck, George G. Brown, Willie Emma Brown, James B. Nichols (as James Bruton Nichols), Della May Scott (as Mary Della May Nichols), Nancy V. (Mamie Vilma Nichols), John W. B. Nichols (as John William Bethuel Nichols), Orrin M. Nichols (as Orrin Maybery Nichols) James W. Nichols (as James Willis Nichols), Maggie M. Nichols (as Maggie May Nichols), Nettie Myrtle Nichols, Louie A. Nichols (as Lena Alta Nichols), as citizens by blood of said nation, and for the admission of William B. Brown, Nancy J. Brown (as Nancy Jane Brown), Amanda Brown, Andrew J. Peck (as A. J. Peck), Sarah Brown, Nancy C. Nichols (as Nancy Caroline Nichols), and Amanda M. Nichols (as Amanda Melvina Nichols), as citizens by intermarriage of said nation; and that on December 8, 1896, said Commission rendered its decision therein, denying the application of the above named applicants for enrollment as citizens of the Choctaw Nation.

From the decision of said Commission an appeal was taken to the United States Court for the Southern District of Indian Territory, which court on December 27, 1897, in the case

entitled "Nancy J. Cooper, et al. vs. Choctaw Nation" (Southern District Citizenship Case No. 88), admitted Nancy A. Brown (as Nancy Alice Brown), Bettie McFarty (as Bettie Brown), Sarah Johnson (as Sarah Brown), Becky Brown, Mary Brown, Mamie (or Minnie) Hudson (as Mamie Brown), Alice Brown, George Brown, Essie Brown, Caswell M. Brown (as Caswell Marion Brown), Maudie Brown, Willie Brown, Polly A. Peck (as Polly Ann Peck), Florence Peck, Oscar Peck, Benjamin Peck (as Benjamin Grant Peck), Andrew Peck, George G. Brown, Willie Emma Brown, James B. Nichols (as James Bruton Nichols), Della May Scott (as Dell May Nichols), Nancy V. Nichols (as Nancy Velmer Nichols), Orin M. Nichols (as Orin Mayberry Nichols), James W. Nichols (as James Willis Nichols), Maggie M. Nichols (as Maggie May Nichols), Nettie Myrtle Nichols (as Myrtle Nichols), and Lenie A. Nichols (as Lenie Alta Nichols), as citizens by blood of the Choctaw Nation, and William B. Brown (as William Kluford Brown), Andrew J. Peck (as Andrew Jackson Peck), and Nancy C. Nichols (as Nancy Caroline Nichols), as citizens by intermarriage of said nation, and denied the applications for the admission of Nancy J. Brown (as Nancy Jane Brown), Sarah Brown, and Amanda M. Nichols (as Amanda Melvina Nichols), as citizens by intermarriage of the Choctaw Nation. The name of the applicant, Essie Brown, was interpolated in the judgment of said court, she not having been an applicant before the Commission to the Five Civilized Tribes in 1896.

On March 18, 1898, said case again came before said court upon a motion of the plaintiff's attorneys to correct the judgment of said court rendered December 20, 1897, and the court, thereupon, ordered said judgment corrected so as to admit the

applicants, Nancy J. Brown (as Nancy Jane Brown), Sarah Brown, Amanda M. Nichols (as Amanda Melvina Nichols), as citizens by intermarriage of the Choctaw Nation.

On September 28, 1898, said court rendered a supplemental judgment admitting Amanda Brown as a citizen by intermarriage of the Choctaw Nation.

On January 17, 1900, this cause again came before said court upon a motion of the defendant to strike out of the judgment theretofore rendered, certain names improperly admitted to citizenship, and said court being fully advised, ordered that the following names, Susie Brown, Andrew J. Peck as (Andrew Jackson Peck), Bettie McCarty (as Bettie Brown), and Becky Brown, be stricken from said former judgment.

Subsequently, upon the representation of the plaintiffs' attorneys that certain persons who were original applicants were by oversight or mistake left out of the original judgment theretofore rendered, the court ordered that the applicants, Nancy J. Brown (as Nancy Jane Brown,), Sarah Brown, Amanda Brown, Amanda M. Nichols and Rebecca E. Brown be admitted to citizenship in the Choctaw Nation.

It further appears from the records of said Commission that on December 17, 1902, the Choctaw and Chickasaw Citizenship Court, created under the provisions of the Act of Congress approved July 1, 1902 (32 Stats., 641), "set aside, annulled, vacated and held for naught" the aforesaid judgment of the United States Court for the Southern District of Indian Territory.

Thereafter, the record in the above case was certified to the Choctaw and Chickasaw Citizenship Court, for a trial de novo, which court, on November 28, 1904, in the case entitled, "William

Weighton Brown, et al. vs. Choctaw and Chickasaw Nations" (Choctaw Chickasaw Citizenship Court Case No. 73, Tishomingo Docket), "ordered, adjudged and decreed that the petition of the plaintiffs, William Weighton Brown (or William Knighton Brown), Caswell Marion Brown, Felly Ann Peck (nee Brown), George H. Brown (or George G. Brown), Honey Ellis Brown (or Honey Alice Brown), Sarah Brown, Mary Brown, Monie Brown (or Mamie Brown), Alice Brown, George Brown, Nondie Brown (or Mandie Brown), Willie Brown, Florence Peck, Oscar Peck, Benjamin Grant Peck, Andrew Peck, William Emma Brown (or Willie Emma Brown), James Burton Nichols, (or James Bruton Nichols), Oney Mayberry Nichols (or Orin Mayberry Nichols), John William Reffle Nichols, Della May Nichols, Nancy Velmer Nichols, James Willis Nichols, Maggie May Nichols, Myrtle Nichols, Lonie Alta Nichols, William Buford Brown, Nancy Caroline Nichols, Rebecca E. Brown (or Becky Brown), Rebecca C. Brown (or Rebecca Brown), Amanda Melvina Nichols, Amanda Brown, Nancy J. Brown (or Nancy Jane Brown), Sarah Brown, be denied, and that they be declared not citizens of the Choctaw Nation, and not entitled to enrollment as such citizens, and not entitled to any rights whatever flowing therefrom."

On December 12, 1904, orders were entered of record by the Commission to the Five Civilized Tribes dismissing the applications for the enrollment of Mary E. McCarty, William Emma Johnston, Minnie Gertrude Brown, Henry Hiten Brown, Albert Knightington Brown, Otis Dewey Peck, Virgie Peck, Louie Herman Nichols and Golda Ula Nichols as citizens by blood of the Choctaw Nation, and on March 18, 1905, an order was entered of record dismissing the application for the enrollment of Fannie C. Brown as a citizen by

blood of said nation. All of said applicants were dismissed for the reason that their parents through whom they claim their rights to enrollment as citizens by blood of the Choctaw Nation, had been denied by a decree of the Choctaw and Chickasaw Citizenship Court.

On December 12, 1904, orders were entered of record by the Commission to the Five Civilized Tribes dismissing the applications for the enrollment of Eli W. Brown, Beanie Nichols and Osa Nichols as citizens by intermarriage of the Choctaw Nation, for the reason that the persons through whom they claim their rights had also been denied by a decree of the Choctaw and Chickasaw Citizenship Court.

On March 30, 1905, the Commission to the Five Civilized Tribes denied the application for the enrollment of Susie Brown as a citizen by blood of the Choctaw Nation, and on April 6, 1906 (I.T.D. 3810-1905), the Department set aside said decision of the Commission and returned the record to this office for a full investigation upon its merits.

Under the regulations adopted by the Commissioner to the Five Civilized Tribes of January 2, 1906, there was filed on February 6, 1906, by Cruce, Cruce and Blackmore, of Ardmore, Indian Territory, attorneys for the petitioners, petitions praying that William B. Brown, Nancy A. Brown, Minnie Hudson, Sarah Johnston, Oscar Lee Johnston, William Erman Johnston, Rebecca Brown, Minnie Gertrude Brown, Henry Niten Brown, Rubie Dill Brown, Eli W. Brown, Mary A. Johnston, Ray Lester Johnston, Edna A. Johnston, Rebecca McCarty, William A. McCarty, Mary E. McCarty, William W. Brown, Nancy Jane Brown, George Brown, Alice Brown, Susie Brown, Cletus Brown, Clarence Brown, A. J. Peck, Felly Ann Peck, Minnie Peck, Oscar Sherman Peck, Benjamin Grant Peck, Andrew Peck, G. D. Peck,

Virgie Peck, Prebble Peck, C. H. Brown, Amanda Brown, Mandy Brown, William Brown, Elbert K. Brown, Annie Jewel Brown, George C. Brown, Sarah Brown, Willie Emma Brown, Cassie Brown, Goldie Brown, J. B. Nichols, Nancy Nichols, Belma Nichols, John V. B. Nichols, Bessie Deaton Nichols, Louis Herman Nichols, Golda Bula Nichols, Silva Jewel Nichols, Della May Scott, Nema Scott, Orin M. Nichols, Amanda Nichols, Myrtle Nichols, Lonie Nichols, James W. Nichols, Osa Nichols, Cera Lee Nichols and Maggie Angel be enrolled as citizens of the Choctaw Nation.

All of the above petitioners, with the exception of Ollie McCarty, Lita Lois Scott, Daphne Myrtle Nichols and Teddy Golden Johnston, are identical with the applicants for whom application has been made for enrollment as citizens of the Choctaw Nation.

On April 16, 1906, the principal petitioners, their attorneys, Cruce, Cruce & Blackmore, of Ardmore, Indian Territory, and Messrs. Mansfield, McMurray & Cornish, attorneys for the Choctaw and Chickasaw Nations, of South McAlester, Indian Territory, were advised that the Commissioner to the Five Civilized Tribes would at his office at Muskogee, Indian Territory, on Monday, May 14, 1906, at nine o'clock A.M., hear such testimony and receive such other evidence as might be submitted by the petitioners in support of their applications for enrollment as citizens of the Choctaw Nation, and by the attorneys for the Choctaw and Chickasaw Nations.

On April 16, 1906, William H. Brown, father of Susie Brown, Cruce, Cruce & Blackmore, attorneys for said Susie Brown, and Mansfield, McMurray & Cornish, attorneys for the Choctaw and Chickasaw Nations, were advised that on April 6, 1906, the Department set aside the decision rendered by the Commission on March 30, 1906, and returned the record in said case with the

structions that a full investigation be made of the rights of said Susie Brown to enrollment as a citizen by blood of the Choctaw Nation, that the testimony of creditable witnesses be required showing her Choctaw blood, if any, the time and place of her birth, her various residences, her ancestors, the privileges, if any, enjoyed by her and her parents as citizens of the Choctaw Nation, and notified that the Commissioner to the Five Civilized Tribes would at his office at Muskogee, Indian Territory, on Monday, May 14, 1906, at nine o'clock A.M., hear such testimony and receive such other evidence as might be submitted in support of said application, investigation to be conducted along the lines indicated by Department letter above referred to.

On motion of Attorney for applicants, the hearing in the matter of the above application was continued on April 26, 1906, to May 21, 1906.

On May 21, 1906, proceedings were had in the matter of said applications in pursuance to the notices above mentioned.

It appears from the record herein that the applicants, William W. Brown, Caswell M. Brown, Polly Ann Peck, George G. Brown, Nancy A. Brown and Bettie McCarty, are the children of the principal applicant, William E. Brown, and Rebecca Cooper (now deceased), who is alleged to have been a Choctaw Indian, and the daughter of William Cooper, who was the son of Johnny Cooper, an alleged Choctaw Indian, who resided near the line between the states of Tennessee and Mississippi; that Sarah Johnston, Pecky Brown, Mary Johnston, Mamie (or Minnie) Hudson, Alice Brown, George Brown, Susie Brown, Fannie C. Brown and Willie Clarence Brown, are the children of the applicants

William N. Brown and Nancy J. Brown, (the latter an applicant for intermarried rights); that William Erman, Oscar Lee and Teddy Golden Johnston are the children of the applicant, Sarah Johnston, and J. A. Johnston, a non-citizen; that Minnie Gertrude, Henry Witen and Pubie Dill Brown are the children of the applicants, Becky Brown and Eli W. Brown, (the latter an applicant for intermarried rights); that Roy Lester and Edna Arvel Johnston are the children of the applicant, Mary Johnston, and Jace J. Johnston, a non-citizen; that Maudie, Willie, Elbert Knightington, and Annie Jewell Brown are the children of the applicant, Cassell W. Brown and Amanda Brown (the latter an applicant for intermarried rights); that Florence, Oscar, Benjamin, Andrew, Otis Dewey Virgie and Prebble Peck are the children of the applicant, Polly Ann Peck and Andrew J. Peck (the latter an applicant for intermarried rights); that Willie Emma, Cassie and Goldie Brown are the children of the applicants, George G. Brown and Sarah Brown (the latter an applicant for intermarried rights); that Mary Ethel, William A. and Ollie McCarty are the children of the applicant, Nettie McCarty, and Oliver McCarty, a non-citizen; that James B. Nichols and Orin M. Nichols are the children of Wilson Nichols (now deceased), a non-citizen, and Delitha Cooper (now deceased), who is alleged to have been a Choctaw Indian and the daughter of John Cooper, above referred to; that John W. B. Nichols, Della May Scott and Nancy V. Nichols are the children of the applicant, James B. Nichols and Nancy C. Nichols (the latter an applicant for intermarried rights); that Louis Herman, Golda Ula and Sylvia Jewel Nichols are the children of the applicant, John W. B. Nichols and Bessie Nichols (the latter an applicant for

intermarried rights); that Hema May and Lita Lois Scott are the children of the applicant, Della May Scott, and Harris Scott, a non-citizen; that James W., Maggie K., Mattie Myrtle and Lonie A. Nichols are the children of the applicant, Orin M. Nichols and Amanda M. Nichols (the latter an applicant for intermarried rights); and that the applicants, Cora Lee and Daphne Myrtle Nichols, are the children of the applicants, James W. Nichols and Osa Nichols (the latter an applicant for intermarried rights).

The applicant, William B. Brown, claims his right to citizenship in the Choctaw Nation by the virtue of his marriage on February 10, 1858, under the laws of the state of Arkansas, to Becky Cooper (now deceased); that Nancy Brown claims her right to enrollment as a citizen by intermarriage by virtue of her marriage to the applicant, William B. Brown, on September 21, 1879; that Eli W. Brown claims his right to enrollment as a citizen by intermarriage by virtue of his marriage on August 21, 1899, under the laws, customs and usages of the Chickasaw Nation to the applicant, Becky Brown, both of said applicants being at said time residents in good faith of the Chickasaw Nation; that Amanda Brown claims her right to enrollment as a citizen by intermarriage by virtue of her marriage on December 2, 1884, to the applicant, Caswell M. Brown; that Andrew J. Peck claims his right to enrollment as a citizen by intermarriage by virtue of his marriage on December 15, 1887, under the laws of the state of Arkansas to the applicant, Polly A. Peck; that Sarah Brown claims her right to enrollment as a citizen by intermarriage by virtue of her marriage to George G. Brown on June 9, 1895; that the applicant, Henry C. Nichols claims her right to enrollment as a citizen by intermarriage by virtue of her marriage to the applicant, James B.

Nichols, on March 9, 1873; that the applicant, Bessie Nichols, claims her right to enrollment as a citizen by intermarriage by virtue of her marriage on September 11, 1878, to the applicant, John W. B. Nichols; that Amanda M. Nichols claims her right to enrollment as a citizen by intermarriage by virtue of her marriage on October 20, 1878, to the applicant, Orin M. Nichols; and that Osa Nichols claims her right to enrollment as a citizen by intermarriage by virtue of her marriage on April 27, 1896, to the applicant, James W. Nichols.

It does not appear from the record herein or from the records in the possession of this office that the applicant, Andrew J. Peck, has ever been admitted to Choctaw citizenship by a duly constituted court or committee of the Choctaw Nation, nor has said applicant ever been married to Polly Ann Peck, through whom he claims his intermarried rights, by virtue of a license issued by the tribal authorities of either the Choctaw or Chickasaw Nation.

At the hearing before the Commissioner to the Five Civilized Tribes on May 21, 1906, William M. Brown, Caswell M. Brown, James M. Nichols and Orin M. Nichols testified that in 1894, they, together with the other applicants herein who were living at said time, petitioned the Choctaw Council for admission as citizens of the Choctaw Nation; that no action having been taken thereon, they, in 1896, appeared before the Choctaw Census Commission and made application to be enrolled upon the 1896 Choctaw Census Roll; and that some time in January, 1897, they received a certificate from the Secretary of the Choctaw Advisory Board, wherein it appeared that they had been enrolled upon the 1896 Choctaw Census Roll. Said applicants further testified

that prior to 1896 they had been permitted to issue permits for their tenants, hold lands, and were not subject to any tribal tax which was due from all non-citizens who were engaged in the mercantile business.

On June 4, 1906, John E. Gasblin testified that he was acquainted with the applicants herein, and that in October 1894, he having business before the Choctaw Council, presented on behalf of the applicants herein who were living at that time, a petition praying that they be admitted as citizens of the Choctaw Nation, and that he does not know what action, if any, was ever taken thereon.

Upon an examination of the tribal rolls of the Choctaw Nation in the possession of this office, it appears that the applicants, William B. Brown, William H. Brown, Nancy J. Brown, Caswell W. Brown, Amanda Brown, Polly Ann Peck, Andrew J. Peck, George G. Brown, Sarah Brown, Nancy A. Brown, Bettie McCarty, Sarah Johnston, Becky Brown, Mary Johnston, Mamie (or Minnie) Hudson, Alice Brown, George Brown, Susie Brown, Maudie Brown, Willie Brown, Florence Peck, Oscar Peck, Benjamin Peck, Andrew Peck, James B. Nichols, Nancy C. Nichols, Orin M. Nichols, Amanda V. Nichols, John W. J. Nichols, Della May Scott, Nancy V. Nichols, James W. Nichols, Maggie M. Nichols, Bettie Myrtle Nichols and Lonie A. Nichols, are identified upon the 1896 Choctaw Census Roll opposite numbers 1688, 1691, 1692, 1701, 1702, 10818, 10817, 1708, 1706, 1699, 1690, 1693, 1694, 1695, 1696, 1697, 1698, 1699, 1703, 1704, 10819, 10820, 10821, 10822, 9803, 9805, 9812, 9813, 9809, 9810, 9811, 9814, 9815, 9816, and 9817, respectively.

It further appears from the record herein that all of

the applicants, that were living on June 26, 1898, were residents in good faith of the Indian Territory on said date.

The evidence in this case further shows that the applicant, Daphne Myrtle Nichols, died on June 27, 1901.

I am of the opinion that in accordance with the opinions of the Assistant Attorney General for the Department of the Interior of February 10, 1905 (I.T.D. 10353-1904), and December 8, 1905 (I.T.D. 3693-1905), in the case of Lula West, the action of the Commission to the Five Civilized Tribes, and the subsequent action of the United States Court for the Southern District of Indian Territory, and the Choctaw and Chickasaw Citizenship Court, upon the right of the applicants who applied to the Commission to the Five Civilized Tribes in 1906, with the exception of Andrew J. Peck, was without authority of law, and of no force and effect upon the status of said applicants as citizens of the Choctaw Nation.

I am further of the opinion that the orders of the Commission to the Five Civilized Tribes of December 12, 1904 and March 18, 1905, dismissing the applications for the enrollment of Mary R. McCarty, William Herman Johnston, Minnie Gertrude Brown, Fannie C. Brown, Henry Eilen Brown, Elbert Knightington Brown, Otis Dewey Peck, Virgie Peck, Louis Herman Nichols and Golda Ula Nichols as citizens by blood of the Choctaw Nation, and Eli W. Brown, Bessie Nichols and Osa Nichols as citizens by inter-marriage of the Choctaw Nation, should be rescinded.

I am further of the opinion that in accordance with the opinions of the Assistant Attorney General for the Department of the Interior of March 2, 1905 (I.T.D. 107-1905) and March 10,

1906 (I.T.D. 9969-1905), Nancy A. Brown, Bettie McCarty, Mary Ethel McCarty, William N. Brown, Sarah Johnston, Becky Brown, Mary Johnston, Mamie (or Minnie) Hudson, Alice Brown, George Brown, Susie Brown, William Ermar Johnston, Minnie Gertrude Brown, Henry Witen Brown, Fannie G. Brown, Caswell E. Brown, Audie Brown, Willie Brown, Elbert Knightington Brown, Polly A. Peck, Florence Peck, Oscar Peck, Benjamin Peck, Andrew Peck, Otis Dewey Peck, Virgie Peck, George G. Brown, Willie Emma Brown, James L. Nichols, Della Kay Scott, Nancy V. Nichols, John W. L. Nichols, Louis Herman Nichols, Golda Ula Nichols, Gran . Nichols, James W. Nichols, Maggie E. Nichols, Nettie Myrtle Nichols and Louis A. Nichols should be enrolled as citizens by blood of the Choctaw Nation, under the provisions of the Acts of Congress approved June 28, 1898 (30 Stats., 495), and July 1, 1902 (32 Stats., 641), and it is so ordered.

I am further of the opinion that William B. Brown, Nancy Brown, Eli W. Brown, Amanda Brown, Sarah Brown, Nancy C. Nichols, Beanie Nichols, Amanda E. Nichols and Osa Nichols should be enrolled as citizens by intermarriage of the Choctaw Nation, under the provisions of the Acts of Congress approved June 28, 1898 (30 Stats., 495) and July 1, 1902 (32 Stats., 641), and it is so ordered.

I am further of the opinion that the application made for the enrollment of Andrew J. Peck as a citizen by intermarriage of the Choctaw Nation should be denied, under the provisions of the Act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered.

I am further of the opinion that William A. McCarty, Ollie McCarty, Oscar Lee Johnston, Willie Clarence Brown, Roy

Lester Johnston, Edna Arvel Johnston, Teddy Golden Johnston, Rubie Dill Brown, Annie Jewell Brown, Prebble Peck, Cassie Brown, Goldie Brown, Nana May Scott, Lita Lois Scott, Sylvie Jewel Nichols and Cora Lee Nichols should be enrolled as citizens by blood of the Choctaw Nation, under the provisions of the Act of Congress approved April 26, 1906 (Public No. 129), and it is so ordered.

I am further of the opinion that the application made for the enrollment of Daphne Myrtle Nichols as a citizen by blood of the Choctaw Nation should be dismissed, and it is so ordered.

Tams Bixby,
COMMISSIONER.

Muskogee, Indian Territory,

Aug. 13, 1906.

Muskogee, Indian Territory, August 13, 1906.

Della May Scott,

Comanche, Indian Territory.

Dear Madam:

Inclosed herewith you will find a copy of the decision of the Commissioner to the Five Civilized Tribes, rendered August 13, 1906, granting the application for the enrollment of Della May Scott, Nema May Scott and Rita Lois Scott as citizens by blood of the Choctaw Nation.

The decision, with the record of proceedings in the case, is this day transmitted to the Secretary of the Interior for review. The final decision of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

SIGNED

Commissioner.

Registered.

MAH 7/13.

SPECIAL.

J.P.

**DEPARTMENT OF THE INTERIOR,
WASHINGTON.**

THE

**D.C. 2920-1907.
I.T.D. 25866-1906.
818-1907.**

January 15, 1907.

LRS

**Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.**

Sir:

Referring to departmental letters of January 9 and 14, 1907, in the matter of the application for the enrolment of Mattie Shockley et al., as citizens by blood of the Choctaw Nation, you are advised that by direction of the President the case will be submitted to the Attorney-General for his opinion. You will suspend action relative to these claimants until further advised.

Respectfully,

Thos Ryan

First Assistant Secretary.

D.O.F.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

J.W.H.
W.C.R.
J.W.L.

GWV
File-5-51.

March 1, 1909.

The Commissioner
to the Five Civilized Tribes.

Sir:

January 25, 1909, you were advised that the names of certain persons were inadvertently included in Departmental letter of January 19, 1909 (File 5-51); that such mistake was due to the fact that it was supposed they were enrolled upon schedules approved by the Department, when in fact, the only schedules upon which their names appear were disapproved, and that no action should be taken under the circumstances looking to the erasure of interlineations or notations, if any, from the disapproved schedules, in connection with their names.

The names of the persons referred to in said letter of January 25, 1909, are as follows:

Cheetaws by Blood.

Roll No.

16103	Elizabeth Allen.
16112	George A. Dargarner.
16110	Lentitia Crutchfield.
16106	Everett Crutchfield.

16111	George W. Crutchfield.
16106	Ida Crutchfield.
16107	Ira Crutchfield.
16108	Louvinia Crutchfield.
16109	William Crutchfield.
921	Josephine Laflors Long.
922	Jake Laflors Long.
16104	David Ritter.

It now appears from the records of the Secretary's Office that there was a schedule approved May 21, 1904, by the Secretary of the Interior, and that the approval then given was cancelled by said Secretary at a later date, to-wit, June 28, 1904.

The name of Elizabeth Allen appears upon the schedule which was approved May 21, 1904, opposite the number 15551. Ida Crutchfield's name appears opposite No. 15553, while the other members of the Crutchfield family were given the numbers immediately following that assigned to her.

You are requested to cause a report to be prepared showing whether the records of your office also show that an earlier schedule containing the names of said persons was approved May 21, 1904; also whether such approval was cancelled June 28, 1904. Please report also the reason for the attempted cancellation, and whether prior notice was given thereof.

It appears further that, in connection with the names of Elisabeth Allen and the Crutchfield family on the roll approved May 21, 1904, the names of Ardella Hickman, Ida M. Southard and Grover Randall are also to be found.

In connection with said names, it is desired that you will report what action, in your opinion, should be taken concerning the first of said persons; also whether the said Ida M. Southard and Grover Randall, respectively, are identical with the Ida M. Southard whose name appears opposite No. 15880 in the printed rolls of citizens by blood of the Choctaw Nation, and the Grover Randall whose name appears on page 8 of Departmental letter of January 19, 1909 (File 5-51), opposite No. 15928.

As appears from the above list, there were other persons besides the said Allen and Crutchfields whose names were enrolled on schedules which were finally disapproved by the Department: for example, George A. Bungarner, Josephine Laflore Long and Jake Laflore Long.

Please report whether the names of these persons appear upon any prior approved schedule; also why it was that the Commissioner to the Five Civilized Tribes enrolled them upon the schedule which was disapproved by the Department, showing whether the Commissioner enrolled them thereon, of his own motion, or under decision or instructions from the Department.

By comparison of the roll approved May 21, 1904, with the printed rolls of Choctaws by blood, the Department

finds that the numbers appearing thereon opposite the names of said persons were subsequently assigned to other citizens of the Choctaw Nation; thereby the series of roll numbers was kept perfect, but a material portion of the rolls was evidently sacrificed upon the supposition that it had become worthless. Inquiry arises in this connection as to whether there were other approved schedules which were subsequently disapproved and thrown aside. Accordingly, it is desired that you also cause a report to be prepared covering this feature of the matter, showing all persons embraced in similar cases, with recommendation as to what action should be taken as to them. This will necessitate a statement as to why their names were stricken or cancelled from the rolls, and whether such action was taken without prior notice.

There is still another matter concerning which the Department desires report to be made. It is observed that the words "No person enrolled at this number" are to be found not infrequently opposite consecutive numbers on the pages of the printed rolls; and you are requested to advise the Department whether such words were substituted for the names of individuals appearing on disapproved schedules, and if such is the case, whether such disapproved schedules were approved at any time by the Department; also whether favorable decisions were ever rendered by the Department as to such persons prior to their enrollment upon such disapproved schedules.

For the sake of expedition, a partial report should be rendered at once concerning the said Elizabeth Allen and the various members of the Gratchfield family named above. The other matters referred to herein can be disposed of by subsequent reports.

Very respectfully,
Jesse M. Wilson,
Assistant Secretary.

Through the
Indian Office.

Land
88228-08
17077-09

JFR

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON, D. C., May 5, 09.

Respectfully referred to the Commissioner
to the Five Civilized Tribes, for
appropriate action.

John Francis, Jr.
Acting Chief Land Division.

1 letter dated May. 1, 09.

D 400-1900

Muskogee, Oklahoma, April 30, 1909.

Subject:

Requesting report relative
to petition of Wm. B. Brown
et al. for enrollment as
citizens of the Choctaw
Nation.

The Honorable,

The Secretary of the Interior,

Sir:

Receipt is hereby acknowledged of Indian Office letter of April 9, 1909 (Land 23000-1909) transmitting petition of Wm. B. Brown, et al. for enrollment as citizens of the Choctaw Nation. This office is also requested to report specially whether the names of any of the persons in this petition appeared upon any tribal rolls of the Choctaw Nation or upon any roll prepared by the Commission to the Five Civilized Tribes and approved by the Secretary of the Interior.

March 1, 1909, the Department also addressed a letter to this office requesting reports as to all persons whose names may have been upon disapproved schedules and at whose numbers in the printed rolls appears the notation "No person enrolled at this number."

Secretary 2

The case of William E. Brown is one of the cases referred to in Departmental letter of March 1, 1909 and the report is made to the Secretary of the Interior, through the Indian Office, with the view of complying with both requests.

I have the honor to report as follows, relative to the case of William E. Brown and the other members of his family who were included in the decision in the consolidated Chectaw case of William E. Brown, et al.:

It appears from the records of this office that on September 9, 1896, in the case entitled Nancy Cooper et al. versus the Chectaw Nation, 1896 Chectaw Citizenship Case Number 1418, original application was made to the Commission to the Five Civilized Tribes, under the provisions of the Act of Congress approved June 10, 1896 (29 Stat., 381), for admission to citizenship in the Chectaw Nation of the applicants, Nancy A. Brown (as Nancy Alice Brown), Bettie McGarity (as Rebecca Elizabeth Brown), William E. Brown (as William Elton Brown), Sarah Johnston (as Sarah Elizabeth Brown), Becky Brown (as Rebecca Catherine Brown), Mary Brown (as Mary Arrillie Brown), Mamie (or Minnie) Hudson (as Minnie Ann Brown), Alice Brown, George Brown (as George Montgomery Brown), Cassell M. Brown, Hattie Brown (as Hattie E. Brown), Willie Brown (as William C. Brown), Polly A. Peck (as Polly Ann Peck), Florence

Secretary 3

Peck (as Elmie F. Peck), Oscar Peck (as Oscar E. Peck), Benjamin Peck (as Benjamin G. Peck), Andrew Peck, George G. Brown, Willie Emma Brown, James B. Nichols, (as James Bruton Nichols), Della May Scott (as Mary Della May Nichols), Nancy V. Nichols (as Fannie Velma Nichols), John W. B. Nichols (as John William Bethuel Nichols), Orin M. Nichols (as Orrin Mayberry Nichols), James W. Nichols (as James Willis Nichols), Maggie M. Nichols (as Maggie May Nichols), Mattie Myrtle Nichols, Lonie A. Nichols (as Lona M. Nichols), as citizens by blood, and for the admission of William B. Brown, Nancy J. Brown (as Nancy Jane Brown), Amanda Brown, Andrew J. Peck (as A. J. Peck), Sarah Brown, Nancy C. Nichols (as Nancy Caroline Nichols), and Amanda M. Nichols (as Amanda Melvina Nichols), as citizens by intermarriage of said nation; and that on December 8, 1896, said Commission rendered its decision denying the applications for citizenship of the above named persons.

From this decision of the Commission an appeal was taken to the United States Court for the Southern District of Indian Territory, which court on December 22, 1897, in the case entitled Nancy J. Cooper, et al. versus the Choctaw Nation, Case Number 96 on the Citizenship Docket, admitted Nancy A. Brown (as Nancy Alice Brown), Bettie McCarty (as Bettie Brown), Sarah Johnston (as Sarah Brown), Daisy Brown,

Secretary 4

Mary Brown, Mamie (or Minnie) Hudson (as Mamie Brown), Alice Brown, George Brown, Essie Brown, Cassell W. Brown (as Cassell Marlen Brown), Maudie Brown, Willie Brown, Polly A. Peck (as Polly Ann Peck), Florence Peck, Oscar Peck, Benjamin Peck (as Benjamin Grant Peck), Andrew Peck, George G. Brown, Willie Emma Brown, James B. Nichols (as James Bruton Nichols), Della May Scott (as Della May Nichols), Nancy V. Nichols (as Nancy Velmer Nichols), Orin M. Nichols (as Orin Mayberry Nichols), James W. Nichols (as James Willis Nichols), Maggie M. Nichols (as Maggie May Nichols), Nettie Myrtle Nichols (as Myrtle Nichols, and Louis A. Nichols (as Louis Ma Nichols) as citizens by blood of the Chectaw Nation, and William B. Brown (as William Bluford Brown), Andrew J. Peck (as Andrew Jackson Peck), and Nancy C. Nichols (as Nancy Caroline Nichols) as citizens by intermarriage of said nation, and denied the applications for the admission of Nancy J. Brown (as Nancy Jane Brown), Ruth Brown and Amanda M. Nichols (as Amanda Melvina Nichols) as citizens by intermarriage of the Chectaw Nation. The name of the applicant, Essie Brown, was interpolated in the judgment of said court, she not having been an applicant before the Commission to the Five Civilized Tribes in 1894.

March 18, 1898, this case again came before the United States Court upon a motion of the plaintiffs' attorneys to

Secretary 8

correct the judgment of said court rendered December 20, 1897, and the court thereupon ordered said judgment corrected so as to admit the applicants, Nancy J. Brown (as Nancy Jane Brown), Sarah Brown, Amanda M. Nichols (as Amanda Melvina Nichols) as citizens by intermarriage of the Choctaw Nation.

September 28, 1898, said court rendered a supplemental judgment admitting Amanda Brown as a citizen by intermarriage of the Choctaw Nation.

January 17, 1900, this cause again came before the court upon a motion of the defendant to strike out of the judgment theretofore rendered certain names improperly admitted to citizenship, and the court ordered that the names of Susie Brown, Andrew J. Peck (as Andrew Jackson Peck), Bettie McCarty (as Bettie Brown), and Becky Brown be stricken from said former judgment.

Subsequently, upon the representation of the plaintiffs' attorneys that certain persons who were original applicants were by oversight or mistake left out of the original judgment theretofore rendered, the court ordered that the applicants, Nancy JUNE Brown (as Nancy Jane Brown), Sarah Brown, Amanda Brown, Amanda M. Nichols and Rebecca E. Brown be admitted to citizenship in the Choctaw Nation.

December 17, 1902, the Choctaw and Chickasaw Citizenship

Secretary 6

Court, created under the provisions of the Act of Congress approved July 1, 1902 (32 Stat., 641), "set aside, annulled, vacated and held for naught" the aforesaid judgment of the United States Court for the Southern District of the Indian Territory.

The record in this case was subsequently certified to the Choctaw and Chickasaw Citizenship Court for a trial de novo, which court, November 29, 1904, in the case entitled William Heighston Brown, et al. versus the Choctaw and Chickasaw Nations, Number 73 on the Tishomingo Docket, ordered, adjudged and decreed that the petition of the plaintiffs be denied and that they be declared not citizens of the Choctaw Nation, and not entitled to enrollment as such citizens, and not entitled to any rights whatever flowing therefrom.

December 12, 1904, orders were entered of record by the Commission to the Five Civilized Tribes dismissing the applications for the enrollment of Mary E. McDarty, William Herman Johnston, Minnie Gertrude Brown, Henry Hiten Brown, Elbert Knightington Brown, Otis Dewey Peck, Virgie Peck, Louis Herman Nichols and Golda Ula Nichols as citizens by blood of the Choctaw Nation and March 18, 1905, and order was entered of record dismissing the application for the enrollment of Fannie C. Brown as a citizen by blood of said nation

Secretary 7

for the reason that the parents of these children had been denied by a decree of the Choctaw and Chickasaw Citizenship Court.

December 12, 1904, orders were entered of record by the Commission dismissing the applications for the enrollment of Eli W. Brown, Bessie Nichols and Osa Nichols as citizens by intermarriage of the Choctaw Nation for the reason that the persons through whom they claimed their rights had been denied by a decree of the Choctaw and Chickasaw Citizenship Court.

March 30, 1906, the Commission to the Five Civilized Tribes denied the application for the enrollment of Essie Brown as a citizen by blood of the Choctaw Nation, and on April 6, 1906 (I T D 3810-1906) the Department set aside this decision of the Commission and returned the record to this office for investigation upon its merits.

Under the regulations adopted by the Commissioner to the Five Civilized Tribes of January 2, 1906, there were filed on February 6, 1906, by Cruise, Cruise & Elsomere, attorneys for the petitioners, Ardmore, Indian Territory, petitions praying that William B. Brown, Nancy A. Brown, Minnie Wadeen, Sarah Johnston, Oscar Lee Johnston, William Ernan Johnston, Rebecca Brown, Minnie Gertrude Brown, Henry

Secretary 8

Niten Brown, Edie Hill Brown, Eli W. Brown, Mary A. Johnston, Roy Lester Johnston, Emma A. Johnston, Rebecca McCarty, William A. McCarty, Mary M. McCarty, William W. Brown, Nancy Jane Brown, George Brown, Alice Brown, Maie Brown, Cletus Brown, Clarence Brown, A. J. Peck, Pelly Ann Peck, Minnie Peck, Oscar Sherman Peck, Benjamin Grant Peck, Andrew Peck, O. D. Peck, Virgie Peck, Probble Peck, C. M. Brown, Amanda Brown, Mandy Brown, William Brown, Elbert E. Brown, Annie Jewel Brown, George G. Brown, Sarah Brown, Willie Emma Brown, Cassie Brown, Goldie Brown, J. B. Nichols, Nancy Nichols, Edna Nichols, John W. B. Nichols, Beattie Eaton Nichols, Louie Herman Nichols, GoldaBula Nichols, Silva Jewel Nichols, Ella May Scott, Hannah Scott, Orin M. Nichols, Amanda Nichols, Myrtle Nichols, Louis Nichols, James W. Nichols, Osa Nichols, Cora Lee Nichols and Maggie Angel be enrolled as citizens of the Chester Nation.

April 16, 1906, the principal petitioners, their attorneys of record and the attorneys for the Chester and Chickasaw Nations, were advised that a hearing would be had in this matter at the office of the Commissioner to the Five Civilized Tribes, Muskogee, Indian Territory, Monday, May 14, 1906, at nine o'clock A. M. and on the same date, William W. Brown, father of Maie Brown, Grace, Grace & Blackmore, and Mary

Secretary 9

field, McMurray & Cornish, were advised that on April 6, 1906, the Department had set aside the decision of the Commission to the Five Civilized Tribes of March 30, 1905, and returned the record with instructions that a full investigation be made of the rights of the said Susie Brown to enrollment as a citizen by blood of the Choctaw Nation, and that such testimony and evidence would be received at the date of the hearing on the petition.

On motion of attorneys for applicants the hearing was continued until May 21, 1906, on which date proceedings were had in the matter of said petition in pursuance to the notices above mentioned.

At the hearing William M. Brown, Oswell M. Brown, James B. Nichols and Orin M. Nichols testified that in 1894, they, together with the other applicants herein who were living at that time, petitioned the Choctaw Council for admission as citizens of the Choctaw Nation; that no action having been taken by the Council as to their case they, in 1896, appeared before the Choctaw Census Commission and made application to be enrolled upon the 1896 Choctaw Census Roll; that some time in January, 1897, they received a certificate from the Secretary of the Choctaw Advisory Board, wherein it appeared that they had been enrolled upon the 1896 Choctaw Census Roll.

Secretary 10

It appears that the applicants, William B. Brown, William H. Brown, Nancy J. Brown, Cassell M. Brown, Amanda Brown, Felly Ann Peck, Andrew J. Peck, George G. Brown, Sarah Brown, Nancy A. Brown, Bettie McCarty, Sarah Johnston, Becky Brown, Mary Johnston, Mamie (or Minnie) Hudson, Alice Brown, George Brown, Essie Brown, Mamie Brown, Willie Brown, Florence Peck, Oscar Peck, Benjamin Peck, Andrew Peck, James B. Nichols, Nancy C. Nichols, Orie M. Nichols, Amanda M. Nichols, John W. B. Nichols, Della May Scott, Nancy V. Nichols, James W. Nichols, Maggie M. Nichols, Nettie Myrtle Nichols and Lonie A. Nichols are identified upon the 1906 Census Roll of the Choctaw Nation, Blue County.

August 13, 1906, the Commissioner to the Five Civilized Tribes rendered a decision, in accordance with the opinion of the Assistant Attorney General for the Department of the Interior of February 10, 1905 (I T D 10353-1904) and December 8, 1905 (I T D 10913-1905) in the case of Lula West, holding that the action of the Commission to the Five Civilized Tribes and the subsequent action of the United States Court for the Southern District of Indian Territory and the Choctaw and Chickasaw Citizenship Court upon the right of the applicants who applied to said Commission in 1896, with the exception of Andrew J. Peck, was without authority of law,

Secretary 11

and of no force and effect upon the status of said applicants as citizens of the Choctaw Nation.

He also rescinded the orders of the Commission to the Five Civilized Tribes of December 12, 1904, and March 10, 1906, dismissing the applications for the enrollment of Mary E. McCarty, William Brown Johnston, Minnie Gertrude Brown, Fannie C. Brown, Henry Niles Brown, Albert Knightington Brown, Otis Dewey Peak, Virgie Peak, Louis Herman Nichols and Golda Wla Nichols as citizens by blood of the Choctaw Nation and H. W. Brown, Bessie Nichols and Osa Nichols as citizens by intermarriage of the Choctaw Nation.

The Commissioner to the Five Civilized Tribes further held, in accordance with the opinions of the Assistant Attorney General for the Department of the Interior of March 3, 1905 (I T D 187-1905) and March 10, 1906 (I T D 9969-1906) that Nancy A. Brown, Bettie McCarty, Mary Ethel McCarty, William E. Brown, Sarah Johnston, Becky Brown, Mary Johnston, Mamie (or Minnie) Hudson, Alice Brown, George Brown, Bessie Brown, William Brown Johnston, Minnie Gertrude Brown, Henry Niles Brown, Fannie C. Brown, Howell H. Brown, Maudie Brown, Willie Brown, Albert Knightington Brown, Polly A. Peak, Florence Peak, Oscar Peak, Benjamin Peak, Andrew Peak, Otis Dewey

Secretary 12

Peck, Virgie Peck, George G. Brown, Willie Emma Brown, James B. Nichols, Della May Scott, Nancy V. Nichols, John W. B. Nichols, Louis Herman Nichols, Golda Wia Nichols, Orin M. Nichols, James W. Nichols, Maggie M. Nichols, Mattie Myrtle Nichols, and Louis A. Nichols should be enrolled as citizens by blood and William B. Brown, Nancy Brown, Eli W. Brown, Amanda Brown, Sarah Brown, Nancy C. Nichols, Bessie Nichols, Amanda M. Nichols and Gus Nichols as citizens by intermarriage of the Choctaw Nation under the provisions of the Acts of Congress approved June 18, 1898 (30 Stat., 495) and July 1, 1906 (34 Stat., 641).

The applications for the enrollment of William A. McCarty, Ollie McCarty, Oscar Lee Johnston, Willie Clarence Brown, Roy Lester Johnston, Edna Arvel Johnston, Teddy Gordon Johnston, Rebekah Dill Brown, Annie Jewell Brown, Prebble Peck Cassie Brown, Goldie Brown, Wynn May Scott, Lita Lois Scott, Sylvie Jewel Nichols and Cora Lee Nichols were also granted under the provisions of the Act of Congress approved April 26, 1906 (34 Stat., 137).

The application for the enrollment of Andrew J. Peck as a citizen by intermarriage was denied and the application for the enrollment of Eugene Myrtle Nichols as a citizen by blood of the Choctaw Nation was dismissed.

Secretary 13

August 14, 1906, the record in this case, together with the decision of August 13, 1906, was transmitted to the Department.

February 7, 1907, there were transmitted to the Secretary of the Interior schedules of citizens by blood and marriage of the Choctaw Nation containing the names of the persons who were favorably passed upon by the Commissioner to the Five Civilized Tribes August 13, 1906, in the Choctaw enrollment case of William B. Brown, et al., as follows:

Citizens by blood . . .	Nos. 1612 to 16159, inclusive.
Citizens by marriage /	Nos. 1638 to 1646, inclusive.
Minor citizens by blood	Nos. 857 to 872, inclusive.

This case was analogous to the case of Mattie Shockley, et al. (Loula West case) in which this office had been directed to suspend action until the Attorney General had passed upon the questions involved in that case, but inasmuch as the time within which persons could be enrolled and their enrollment approved by the Secretary of the Interior under the provisions of the Act of Congress approved April 26, 1906, was becoming very short, the schedules above described were prepared by this office without waiting for the opinion of the Attorney General and were forwarded to the Department in order that, if the opinion of the Attorney General were favorable, the rights of these applicants might be protected without

Secretary 14

delay, and this office requested, in the event of such favorable opinion of the Attorney General, that these schedules be approved by the Secretary of the Interior.

February 26, 1907, referring to Departmental letter of February 23, 1907 (I F D 4384-1907) requesting this office to forward a list of those persons whose enrollment should be cancelled in view of the opinion of the Attorney General of February 19, 1907, in the Choctaw enrollment cases of Loula West and William C. Thompson, the Commissioner to the Five Civilized Tribes called the attention of the Department to the schedules above described which were forwarded February 7, 1907, and advised that this case was analogous to the case of Loula West. It was, therefore, recommended that the decision of August 13, 1906, be not approved by the Department and that the schedules transmitted with office letter of February 7, 1907, be disapproved by the Secretary of the Interior.

February 26, 1907 (Land 71868-1906, 2280, 14412-1907)
the Indian Office forwarded to the Department the record in the case of William E. Brown, et al. together with the schedules transmitted February 7, 1907, and recommended, in view of the opinion of the Attorney General of February 19, 1907, that the decision of the Commissioner of August 13, 1906, in

Secretary 15

so far as it was favorable to the applicants, be reversed and the schedules disapproved, which was done by the Department March 1, 1907 (I I D 8748-1907).

This office has no record of any favorable decision of the Department as to the persons included in this consolidated case.

No formal allotments were made to the persons included in this case but applications were made on their behalf for certain lands which were involved in Chickasaw contest cases. Subsequent to March 4, 1907, these contests were dismissed and on August 31, 1907, a motion to reinstate said contests was denied.

August 29, 1907, the Department advised this office that by letter of August 5, 1907, counsel for the claimants in the case of William B. Brown, et al. requested that the order of the Department of June 14, 1907, in the case of William C. Thompson and others, suspending action on claims to allotments of lands be made applicable to them.

September 20, 1907, this office reported that it did not appear that the claimants in the case of William B. Brown, et al. possessed the same status as the claimants in the case of William C. Thompson, et al. as their names had never been upon an approved roll, but that it appeared they occupied

Secretary 16

the same status as the persons included in the case of John W. Gamblin and the case of Angus A. Spring.

October 12, 1907 (I T N 77893-1907) the Indian Office held that the action of the Commissioner to the Five Civilized Tribes in dismissing the contests on behalf of these claimants, and in refusing to reinstate the same, was proper and recommended that he be advised that all applications for allotments on behalf of these persons should be denied and this recommendation was approved by the Department October 14, 1907.

Following these instructions of the Department the lands in contest were awarded to the contestees, and patents therefor were recorded and delivered to them. It is believed, therefore, that these persons, in the event of a favorable decision relative to their enrollment, would not recover the land referred to, and if they are holding or claiming other land this office has no record of such claim.

If they are now in possession of other lands in the Choctaw and Chickasaw Nations, this office will, however, upon the receipt of descriptions thereof, make a record of their claim to the land, pending further action by the Department.

I have further to report that the record in this case is full and complete and it is believed the applicants could

February 17

add nothing material thereto at this time, and that it would work an unjustifiable hardship upon them to notify them now to appear and give further testimony in this case and force upon them the expense of a hearing at this office.

I have not, therefore, forwarded the notices referred to in Departmental letter of March 15, 1909 and Indian Office letter of April 9, 1909, but will await specific instructions from the Department as to its wishes in the matter in accordance with my request of April 14, 1909, in the Mattie Shockley case.

If it is the desire of the Department that notices be forwarded in this case, however, this office will proceed to notify the applicants thereof immediately upon receipt of advice from the Department and will make supplemental report after their replies have been received.

The petition inclosed with Indian Office letter of April 9, 1909, is herewith returned.

Respectfully,

Through the Commissioner
of Indian Affairs.

Commissioner.

AM

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Land
S1790-1909.
J.E.D.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS.
Washington.

Jun. 25, 1909

Enrollment case of
Wm. B. Brown et al.

The Commissioner

to the Five Civilized Tribes,
Muskegee, Oklahoma.

Sir:

Referring to your report of April 20, 1909, relative to the consolidated Choctaw enrollment case of William B. Brown et al., you are advised, that on June 15, 1909, the Department held that the case mentioned was no analogous to that of John E. Goldsby, and did not come within the principles announced by the Supreme Court of the United States in that case, (211 U. S. 249).

The Department, therefore, declined to take any action looking to the enrollment of any of the applicants in the consolidated case of William B. Brown et al.

A copy of approved Office letter of May 17, 1909, is inclosed for your further information.

You are requested to notify the parties in interest.

Very respectfully,

J. H. Darrin,
Acting Chief Clerk.

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D-7339

Land
31790-1909
J E D

DEPARTMENT OF THE INTERIOR
OFFICE OF INDIAN AFFAIRS,
Washington,

G.R.
J.V.
J.P.Jr.
W.R.L.

Enrollment case of
William B. Brown et al.

May 17, 1909.

The Honorable,

The Secretary of the Interior.

Sir:

Referring to Department letter of March 1, 1909, there is transmitted herewith a report dated April 20, 1909, from the Commissioner to the Five Civilized Tribes, relative to the enrollment case of William B. Brown et al. The history of the claim is set out fully in the reports enclosed.

The record shows, among other things, that on August 13, 1906, the Commissioner to the Five Civilized Tribes rendered a decision that Nancy A. Brown, Bettie McCarty, Mary Ethel McCarty, William W. Brown, Sarah Johnston, Becky Brown, Mary Johnston, Mamie (or Winnie) Hudson, Alice Brown, George Brown, Susie Brown, William Ermer Johnston, Minnie Gertrude Brown, Henry Niten Brown, Fannie C. Brown, Caswell M. Brown, Maudie Brown, Willie Brown, Albert Knightington Brown, Pelly A. Peck, Florence Peck, Oscar Peck, Benjamin Peck, Andrew Peck, Otis Dewey Peck, Virgie Peck, George G. Brown, Willie Emma Brown, James B. Nichols, Della May Scott, Nancy V. Nichols, John W. B. Nichols, Louie Herman Nichols, Golda Ula Nichols, Grin W. Nichols, James W. Nichols, Maggie M. Nichols, Nettie Myrtle Nichols and Lenie A. Nichols should be enrolled as citizens by blood and William B. Brown, Nancy Brown, Eli W. Brown,

Amanda Brown, Sarah Brown, Nancy C. Nichols, Essie Nichols, Amanda M. Nichols and Osa Nichols as citizens by intermarriage of the Choctaw Nation under the provisions of the Acts of Congress approved June 28, 1898 (30 Stat. L. 495) and July 1, 1902 (32 Stat., L. 641).

The applications for the enrollment of William Al McCarty, Ollie McCarty, Oscar Lee Johnston, Willie Clarence Brown, Roy Lester Johnston, Emma Arvel Johnston, Teddy Golden Johnston, Rubie Mill Brown, Annie Jewell Brown, Prebble Peck, Cassie Brown, Goldie Brown, Wema May Scott, Lita Lein Scott, Sylvie Jewel Nichols and Cora Lee Nichols were also granted under the provisions of the Act of Congress approved April 26, 1906 (34 Stat. L. 137).

The application for the enrollment of Andrew J. Peck as a citizen by intermarriage was denied and the application for the enrollment of Daphne Myrtle Nichols as a citizen by blood of the Choctaw Nation was dismissed.

It appears that on August 14, 1906, the record in the case, together with the decision, was forwarded by the Commissioner to the Five Civilized Tribes, and that on February 7, 1907, he transmitted to the Department schedules of citizens of the Choctaw Nation by blood and by marriages, containing the names of persons who were favorably passed upon by him in his decision of August 13, 1906, in this case. It appears also that on February 26, 1907, the Commissioner, referring to Department letter of February 23, 1907, invited

the Department's attention to the above-mentioned schedules, and to the Chectaw enrollment case of William B. Brown, et al, and recommended, in view of the opinion of the Attorney General dated February 19, 1907, in the Loula West and other cases, that his decision of August 13, 1906, be not approved, and that the schedules referred to be disapproved.

On March 1, 1907, the Department reversed the decision of the Commissioner so far as it was favorable to the applicants, and disapproved the schedules containing their names.

The Commissioner to the Five Civilized Tribes reports further that his office has no record of any favorable decision of the Department as to the persons included in this case.

It appears also that their names have never been placed upon any roll or schedule of citizens of the Chectaw Nation prepared by the Commissioner to the Five Civilized Tribes and approved by the Department.

The Office concurs in the view of the Commissioner to the Five Civilized Tribes that as the record in the case is a complete one, the applicants could add nothing material thereto at this time, and to have them appear at his office to give further testimony would only make additional expense for them and work a hardship without any benefits accruing therefrom.

On April 9, 1909, the Office requested the Commissioner to the Five Civilized Tribes to take no steps pending the preparation of his report concerning the enrollment case of William B. Brown, et al toward the issuance of a patent to any adverse party in interest to the lands occupied by the applicants in the above mentioned case. The Commissioner was also

L-51790-09

requested to instruct the United States Indian Agent, at Union Agency, to suspend action, if any was contemplated, toward dispossessing the applicants of the lands occupied by them until further advised by the Department.

The Commissioner reports that no formal allotments were made to the persons included in the above case, but that applications were made in their behalf for certain lands which were involved in Chickasaw contest cases. The contests in behalf of these claimants were dismissed by the Commissioner to the Five Civilized Tribes, and on October 12, 1907, the Office held that the action of the Commissioner was proper, and recommended that he be advised that all applications for allotments in behalf of these persons should be denied.

This recommendation was approved by the Department on October 14, 1907. It appears from the report of the Commissioner to the Five Civilized Tribes that the lands in contest were awarded to the contestees and patents therefor were recorded and delivered to them. Title having passed to the contestees, the Department is now without authority to place or permit the applicants in the William B. Brown case to remain in possession of the lands covered by the patents issued to the contestees, even in the event of the Department rendering a favorable decision relative to their enrollment.

The Commissioner reports that his office has no record of the applicants in the case mentioned holding or claiming possession of any other lands in the Choctaw or Chickasaw

L-21790--8

Nations, but says that if they are in company of such other lands his office will, upon receipt of a description thereof, make a record of the claims pending further action by the Department.

The Office is of the opinion that the case of William B. Brown, et al., is not analogous to that of John E. Goldsby, and that it does not come within the principles announced by the Supreme Court of the United States in its decision of November 30, 1908, in that case (211 U. S. 249).

It is therefore recommended that the Department take no action looking to the enrollment of any of the applicants included in the consolidated case of William B. Brown et al.

The record in the case, and other papers pertaining thereto, are transmitted herewith for your further information.

Very respectfully,

R. G. Valentine,

Acting Commissioner.

RHS 11

291

WGP June 15, 1909 JWH

Approved:

Frank Pierce,

First Assistant Secretary. JWH.

Muskogee, Oklahoma, June 29, 1909.

Della May Scott,

Comanche, Oklahoma.

Madam:

You are hereby notified that on June 15, 1909, the Secretary of the Interior held that the Choctaw enrollment case of William B. Brown et al., with which your case was consolidated, was not analogous to that of John N. Goldsby (211 U. S. 249) and declined to take any action looking to the enrollment of the applicants therein under the opinion of the Supreme Court of the United States of November 30, 1908, in said Goldsby case.

Respectfully,

WHA-KB.

Commissioner.

Refer in reply to
the following:
Land-
Population
B-076-1910
J N D

2-29161

¹
Address only the
Commissioner of Indian
Affairs

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,

Enrollment claim of
William E. Brown, et al.

WASHINGTON.

Mar 29 1910

The Commissioner
to the Five Civilized Tribes,
Waskoge, Oklahoma.

Sir:

On November 28, 1909, W. E. Field, attorney at law,
Washington, D. C., filed a brief in support of a motion for a
rehearing and review in the consolidated Choctaw enrollment case
of William E. Brown, et al.

There is transmitted herewith for your information a
copy of Department letter of March 22, 1910, denying said motion.
There is also inclosed a copy of Office letter of December 4,
1909, in said case.

Very respectfully,

John Francis Jr.
Acting Chief Land Division

KB-26
3326

G.C.A.

Copy

J.V.H.

DEPARTMENT OF THE INTERIOR.
WASHINGTON.

Office of Indian
Affairs.
Received
May 23, 1910
File 24078

D-7329.

Commissioner of Indian Affairs.

Sir:

A petition has been filed for a rehearing and review in the matter of the Choctaw enrollment case of William M. Brown et al., which was the subject of your letter of May 17, 1909, approved June 13, 1909, recommending that the Department take no action looking to the enrollment of any of the applicants included in said case.

It is urged that the applicants were found to be entitled to enrollment by the Secretary of the Interior and that therefore they should be accorded the status of recognized citizens of the Choctaw nation. It appears, however, from the records of the Department that the decision by which they were adjudged to be entitled to enrollment, and upon which they apparently rely, was rendered by the Commissioner to the Five Civilized Tribes; that said decision was not affirmed by the Secretary of the Interior, and that the names of the applicants do not appear upon the final rolls approved by the Secretary.

Premises considered, the petition is hereby denied and you are requested to advise the parties in interest as

cordingly. The petition and the letter received with it
are inclosed for the files of your office.

This letter will be regarded as a substitute for
Departmental letter of March 8, 1910, relating to said case.

Very respectfully,

(Signed) Frank Pierce
First Assistant Secretary.

Land
Population
1880-1909
J H B

Enrollment case
of William B. Brown,
et al.

Dec. 4, 1909

W. S. Field, Esq.

Attorney at Law,

No. 926 Colorado Building,

Washington, D. C.

Sir:

Referring to your letter of November 24, 1909 and to the brief filed therewith, relative to the consolidated Choctaw enrollment case of William B. Brown, et al., you are advised that the statements contained in your brief do not accord with the facts in the case as shown by the record.

On March 1, 1907 the Department rendered its decision denying the applicants enrollment and disapproved the schedules containing their names. It does not appear that their names were ever on any roll or schedule of citizens of the Choctaw Nation prepared by the Commission or the Commissioner to the Five Civilized Tribes and approved by the Department or that the Department ever instructed the Commission or the Commissioner to place the names of the applicants on the roll for approval; neither does the record show that the Department ever rendered any decision favorable to their enrollment.

1-94222-2

On May 17, 1909 the Department held that the case of William E. Brown, et al., was not analogous to that of John E. Solitary and did not come within the principles announced by the Supreme Court of the United States in its decision of November 20, 1908 (211 U. S., 249) in that case.

The Department, therefore, declined to take any action looking to the enrollment of the applicant included in the consolidated case of William E. Brown, et al.

In view of the record in the case and of the Department's action therein, the Office can see no reason for recommending legislation in behalf of the applicants in said case.

Very respectfully,

(Signed) F. H. Abbott,

Assistant Commissioner.

HAS-30
4202

6026

Choctaw 6027

Orin M. Nichols

Transferred from Choct. Card 5061

See C-34

Duplicate record bound

8-13-06 granted 3-1-07

Decision of Commissioners reversed
and schedule containing names of These
applicants disapproved

6-29-09 Parties notified

6027

Choctaw
5060-5061
5066-5100

Muskogee, Indian Territory, December 21, 1903.

Orrin W. Nichols,

Comanche, Indian Territory.

Dear Sir:

Your letter of December 3, 1903, addressed to the Secretary of the Interior, has been by him referred to this Commission for consideration and appropriate action. You ask therein if the name of J. B. Nichols, Orrin W. Nichols, William H. Brown, Caswell M. Brown, are on record as applicants for citizenship in the Choctaw Nation.

In reply to your letter you are informed that it appears from our records that James B. Nichols and his wife, and children, Orrin W. Nichols and his wife and children, William H. Brown and his wife and children, and Caswell M. Brown and his family, were admitted to citizenship in the Choctaw Nation by a judgment of the United States Court for the Southern District of Indian Territory, rendered at Ardmore, Indian Territory, December 20, 1897, in court case (Citizenship Docket), number 96. Under the provisions of the act of Congress of July 1, 1902, which was ratified by the Choctaw and Chickasaw Nations September 25, 1902, the Commission is prohibited from enrolling or making allotment of lands in the Choctaw and Chickasaw Nations to persons whose citizenship in said Nations is

Orrin W. Nichols --2

dependent upon judgments of the United States Court in Indian Territory, until their right to such citizenship is finally determined.

Respectfully,

Chairman.

SPECIAL.

J.P.

DEPARTMENT OF THE INTERIOR,

WASHINGTON.

FHE

**D.C. 2920-1907.
I.T.D. 25868-1906.
818-1907.**

January 15, 1907.

LRS

**Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.**

Sir:

Referring to departmental letters of January 9 and 14, 1907, in the matter of the application for the enrollment of Mattie Sheekley et al., as citizens by blood of the Choctaw Nation, you are advised that by direction of the President the case will be submitted to the Attorney-General for his opinion. You will suspend action relative to these claimants until further advised.

Respectfully,

Thos Ryan

First Assistant Secretary.

7-6027

Muskogee, Indian Territory, April 19, 1907.

Edna L. Krebs,

Cleora, Indian Territory.

Dear Madam:

Receipt is hereby acknowledged of your letter of March 16, 1907, asking if Oren M. Nichols a court claimant was denied citizenship.

In reply to your letter you are advised that on March 1, 1907, the Secretary of the Interior reversed the decision of the Commissioner to the Five Civilized Tribes of August 13, 1906, and denied the right to enrollment of Oren M. Nichols as a citizen by blood of the Choctaw Nation.

Respectfully,

Commissioner.

7-6027
7-6028
7-301

Vuskogee, Indian Territory, April 19, 1907.

J. A. Herman,

Palmer, Indian Territory.

Dear Sir:

Receipt is hereby acknowledged of your letter of April 5, 1907, stating that you are guardian of Oren and Byron Nichols and you desire to be advised if the citizenship case of Arn Nichols and J. W. B. Nichols has been affirmed or denied by the Secretary of the Interior.

In reply to your letter you are advised that on March 1, 1907, the Secretary of the Interior reversed the decision of the Commissioner to the Five Civilized Tribes of August 13, 1906, granting the application for the enrollment of John W. B. Nichols and Oren W. Nichols as citizens by blood of the Choctaw Nation and the schedules on which their names were placed were the same date disapproved by the Department.

Respectfully,

Commissioner.

7-6027

Muskogee, Indian Territory, April 19, 1907.

Chief Clerk,
Chickasaw Land Office,
Ardmore, Indian Territory.

Dear Sir:

Receipt is hereby acknowledged of your letter of April 8, 1907, asking the final disposition of the application of Orin W. Nichols for enrollment as a citizen of the Choctaw Nation.

In reply to your letter you are advised that on March 1, 1907, the Secretary of the Interior reversed the decision of the Commissioner to the Five Civilized Tribes of August 13, 1906, granting the application for the enrollment of Oren M. Nichols as a citizen by blood of the Choctaw Nation and disapproved the schedule upon which his name had been placed.

You were fully advised on April 15, 1907, relative to the status of the persons included in the consolidated case of William B. Brown et al. and the cards on which the names of these persons appear have been forwarded to the Choctaw and Chickasaw Land Offices for the purpose of making the duplicate records conform to those of the General Office.

Respectfully,

Commissioner.

7-6027
7093-1907
7910-1907

Muskogee, Indian Territory, September 7, 1907.

The United States Indian Agent,

Muskogee, Indian Territory,

Dear Sir:

Receipt is hereby acknowledged of your letter of August 24, 1907, in re Chickasaw Intruder case Number 1186, in which complaint has been filed by Edna L. Krebbs as guardian of Pushmataha Dobbs, a minor, for possession of certain land in the Chickasaw Nation, asking that one O. M. Nichols and members of his family be removed therefrom.

Gilbert & Bond, Duncan, Indian Territory, have filed an answer for the defendant Nichols, et al. claiming that said Nichols and his family were stricken from the rolls in accordance with the opinion of the Attorney General of March last, and requesting that action be withheld pending determination of the case of Thompson, et al. vs. the Choctaw and Chickasaw Nations, now pending in the Supreme Court of the District of Columbia.

Receipt is also acknowledged of your letter of August 31, 1907, in re Choctaw Intruder case Number 1566, in which complaint has been made by Henry J. Salter for possession of certain described land, which is his homestead, and he requests that James B. Nichols and Della M. Scott be removed therefrom.

U S I A 2

The defendants in the last named case are members of the Nichols family referred to in the former case and answer has been made by their attorneys as above set out.

You ask to be advised if the names of O. M. Nichols and other members of his family, James B. Nichols and Della M. Scott and other members of their family were stricken from the rolls in accordance with the opinion of the Attorney General, and if action should be withheld in these matters pending a determination of the Thompson case in the Supreme Court of the District of Columbia.

In reply you are advised that Orin M. Nichols, his wife and children, James B. Nichols and the members of his family and Della M. Scott, were parties to an application for enrollment as citizens of the Choctaw Nation which was granted by the Commissioner and their names were placed upon a schedule which was forwarded to the Secretary of the Interior for consideration. The action of the Commission in granting their application for enrollment was reversed by the Department in accordance with an opinion of the Attorney General of the United States of February 19, 1907, and the schedules containing the names of these persons were disapproved by the Department. Their names were not, therefore, stricken from the rolls of citizens of the Choctaw Nation, as alleged by their attorneys, for the reason that their enrollment was never approved by the Secretary of the Interior.

The contests filed by the defendants above named were

U S I A 3

dismissed by the Commissioner, but motions to reinstate have been filed. These motions were denied by the Commissioner August 31, 1907, and the defendants named in your letter have thirty days from that date within which to appeal from this app decision.

Respectfully,

Acting Commissioner.

B.O.N.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

J.W.H.
W.C.R.
J.W.L.

OTW
File-5-51.

March 1, 1909.

The Commissioner
to the Five Civilized Tribes.

Sir:

January 25, 1909, you were advised that the names of certain persons were inadvertently included in Departmental letter of January 19, 1909 (File 5-51); that such mistake was due to the fact that it was supposed they were enrolled upon schedules approved by the Department, when in fact, the only schedules upon which their names appear were disapproved, and that no action should be taken under the circumstances looking to the erasure of interlineations or notations, if any, from the disapproved schedules, in connection with their names.

The names of the persons referred to in said letter of January 25, 1909, are as follows:

Choctaws by Blood.

Roll No.

16103	Elizabeth Allen.
16112	George A. Dugarnier.
16110	Louittia Crutchfield.
16106	Everett Crutchfield.

+

16111	George W. Crutchfield.
16106	Ida Crutchfield.
16107	Ima Crutchfield.
16108	Louvinia Crutchfield.
16109	William Crutchfield.
921	Josephine Laflere Long.
922	Jake Laflere Long.
16104	David Ritter.

It now appears from the records of the Secretary's Office that there was a schedule approved May 21, 1904, by the Secretary of the Interior, and that the approval then given was cancelled by said Secretary at a later date, to-wit, June 28, 1904.

The name of Elizabeth Allen appears upon the schedule which was approved May 21, 1904, opposite the number 15551. Ida Crutchfield's name appears opposite No. 15553, while the other members of the Crutchfield family were given the numbers immediately following that assigned to her.

You are requested to cause a report to be prepared showing whether the records of your office also show that an earlier schedule containing the names of said persons was approved May 21, 1904; also whether such approval was cancelled June 28, 1904. Please report also the reason for the attempted cancellation, and whether prior notice was given thereof.

It appears further that, in connection with the names of Elizabeth Allen and the Grutchfield family on the roll approved May 21, 1904, the names of Ardella Hickman, Ida M. Southard and Grover Randall are also to be found.

In connection with said names, it is desired that you will report what action, in your opinion, should be taken concerning the first of said persons; also whether the said Ida M. Southard and Grover Randall, respectively, are identical with the Ida M. Southard whose name appears opposite No. 15886 in the printed rolls of citizens by blood of the Choctaw Nation, and the Grover Randall whose name appears on page 8 of Departmental letter of January 19, 1909 (File 5-51), opposite No. 15928.

As appears from the above list, there were other persons besides the said Allen and Grutchfields whose names were enrolled on schedules which were finally disapproved by the Department: for example, George A. Bumgarner, Josephine Laflore Long and Jake Laflore Long.

Please report whether the names of these persons appear upon any prior approved schedule; also why it was that the Commissioner to the Five Civilized Tribes enrolled them upon the schedule which was disapproved by the Department, showing whether the Commissioner enrolled them thereon, of his own motion, or under decision or instructions from the Department.

By comparison of the roll approved May 21, 1904, with the printed rolls of Choctaws by blood, the Department

finds that the numbers appearing thereon opposite the names of said persons were subsequently assigned to other citizens of the Chibotaw Nation; thereby the series of roll numbers was kept perfect, but a material portion of the rolls was evidently sacrificed upon the supposition that it had become worthless. Inquiry arises in this connection as to whether there were other approved schedules which were subsequently disapproved and thrown aside. Accordingly, it is desired that you also cause a report to be prepared covering this feature of the matter, showing all persons embraced in similar cases, with recommendation as to what action should be taken as to them. This will necessitate a statement as to why their names were stricken or cancelled from the rolls, and whether such action was taken without prior notice.

There is still another matter concerning which the Department desires report to be made. It is observed that the words "No person enrolled at this number" are to be found not infrequently opposite consecutive numbers on the pages of the printed rolls; and you are requested to advise the Department whether such words were substituted for the names of individuals appearing on disapproved schedules, and if such is the case, whether such disapproved schedules were approved at any time by the Department; also whether favorable decisions were ever rendered by the Department as to such persons prior to their enrollment upon such disapproved schedules.

-4-

For the sake of expedition, a partial report should be rendered at once concerning the said Elizabeth Allen and the various members of the Gratafield family named above. The other matters referred to herein can be disposed of by subsequent reports.

Very respectfully,

James H. Wilson,

Assistant Secretary.

Through the

Indian Office.

Land
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17077-00

JFM

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON, D. C., Nov. 2, 09.

Respectfully referred to the Commissioner
to the Five Civilized Tribes, for
appropriate action.

John Frances, Jr.
Acting Chief Land Division.

1 letter dated Nov. 1, 09.

D 468-1909

Muskogee, Oklahoma, April 20, 1909.

Subject:

Requesting report relative
to petition of Wm. B. Brown
et al. for enrollment as
citizens of the Choctaw
Nation.

The Honorable,

The Secretary of the Interior,

Sir:

Receipt is hereby acknowledged of Indian Office letter of
April 9, 1909 (Land 23090-1909) transmitting petition of Wm.
B. Brown, et al. for enrollment as citizens of the Choctaw
Nation. This office is also requested to report specially
whether the names of any of the persons in the petition ap-
peared upon any tribal rolls of the Choctaw Nation or upon any
roll prepared by the Commission to the Five Civilized Tribes
and approved by the Secretary of the Interior.

March 1, 1909, the Department also addressed a letter to
this office requesting reports as to all persons whose names
may have been upon disapproved schedules and at whose numbers
in the printed rolls appears the notation "No person enrolled
at this number."

Secretary

The case of William M. Brown is one of the cases referred to in Departmental letter of March 1, 1908 and the report is made to the Secretary of the Interior, through the Indian Office, with the view of complying with both requests.

I have the honor to report as follows, relative to the case of William M. Brown and the other members of his family who were included in the decision in the consolidated Chectaw case of William M. Brown, et al.:

It appears from the records of this office that on September 9, 1896, in the case entitled Nancy Cooper et al. versus the Chectaw Nation, 1896 Chectaw Citizenship Case Number 1418, original application was made to the Commission to the Five Civilized Tribes, under the provisions of the Act of Congress approved June 10, 1896 (29 Stat., 321), for admission to citizenship in the Chectaw Nation of the applicants, Nancy A. Brown (as Nancy Alice Brown), Bettie McGarty (as Rebecca Elizabeth Brown), William M. Brown (as William Hiten Brown), Sarah Johnston (as Sarah Elizabeth Brown), Becky Brown (as Rebecca Catherine Brown), Mary Brown (as Mary Arrillie Brown), Mamie (or Minnie) Hudson (as Minnie Ann Brown), Alice Brown, George Brown (as George Montgomery Brown), Cassell M. Brown, Maudie Brown (as Maudy E. Brown), Willie Brown (as William C. Brown), Polly A. Peck (as Polly Ann Peck), Florence

Secretary 3

Peck (as Minnie F. Peck), Oscar Peck (as Oscar E. Peck), Benjamin Peck (as Benjamin G. Peck), Andrew Peck, George G. Brown, Willie Emma Brown, James M. Nichols, (as James Ersten Nichols), Della May Scott (as Mary Della May Nichols), Nancy V. Nichols (as Nannie Velma Nichols), John W. E. Nichols (as John William Bethuel Nichols), Oria M. Nichols (as Orrin Hayberry Nichols), James W. Nichols (as James Willie Nichols), Maggie M. Nichols (as Maggie May Nichols), Mattie Myrtle Nichols, Lonie A. Nichols (as Lena M. Nichols), as citizens by blood, and for the admission of William E. Brown, Nancy J. Brown (as Nancy Jane Brown), Amanda Brown, Andrew J. Peck (as A. J. Peck), Sarah Brown, Nancy C. Nichols (as Nancy Caroline Nichols), and Amanda M. Nichols (as Amanda Evelyn Nichols), as citizens by intermarriage of said nation; and that on December 8, 1896, said Commission rendered its decision denying the applications for citizenship of the above named persons.

From this decision of the Commission an appeal was taken to the United States Court for the Southern District of Indian Territory, which court on December 30, 1897, in the case entitled Nancy J. Cooper, et al. versus the Cheate Nation, Case Number 96 on the Citizenship Docket, admitted Nancy A. Brown (as Nancy Alice Brown), Bettie McCarty (as Bettie Brown), Sarah Johnston (as Sarah Brown), Rocky Brown,

Secretary 4

Mary Brown, Mamie (or Winnie) Hudson (as Mamie Brown), Alice Brown, George Brown, Esie Brown, Caswell W. Brown (as Caswell Marion Brown), Maudie Brown, Willie Brown, Polly A. Peck (as Polly Ann Peck), Florence Peck, Oscar Peck, Benjamin Peck (as Benjamin Grant Peck), Andrew Peck, George O. Brown, Willie Emma Brown, James M. Nichols (as James Bruton Nichols), Della May Scott (as Della May Nichols), Nancy V. Nichols (as Nancy Velmer Nichols), Orin M. Nichols (as Orin Mayberry Nichols), Jane W. Nichols (as Jane Willis Nichols), Maggie M. Nichols (as Maggie May Nichols), Nettie Myrtle Nichols (as Myrtle Nichols), and Lemie A. Nichols (as Lemie Alta Nichols) as citizens by blood of the Chectaw Nation, and William B. Brown (as William Bluford Brown), Andrew J. Peck (as Andrew Jackson Peck), and Nancy C. Nichols (as Nancy Caroline Nichols) as citizens by intermarriage of said nation, and denied the applications for the admission of Nancy J. Brown (as Nancy Jane Brown), Sarah Brown and Amanda M. Nichols (as Amanda Melvina Nichols) as citizens by intermarriage of the Chectaw Nation. The name of the applicant, Esie Brown, was interpolated in the judgment of said court, she not having been an applicant before the Commission to the Five Civilized Tribes in 1896.

March 18, 1898, this case again came before the United States Court upon a motion of the plaintiffs' attorneys to

Secretary 8

correct the judgment of said court rendered December 20, 1897, and the court thereupon ordered said judgment corrected so as to admit the applicants, Nancy J. Brown (as Nancy Jane Brown), Sarah Brown, Amanda E. Nichols (as Amanda Melvina Nichols) as citizens by intermarriage of the Choctaw Nation.

September 28, 1898, said court rendered a supplemental judgment admitting Amanda Brown as a citizen by intermarriage of the Choctaw Nation.

January 17, 1900, this cause again came before the court upon a motion of the defendant to strike out of the judgment theretofore rendered certain names improperly admitted to citizenship, and the court ordered that the names of Susie Brown, Andrew J. Peck (as Andrew Jackson Peck), Bettie McCarty (as Bettie Brown), and Becky Brown be stricken from said former judgment.

Subsequently, upon the representation of the plaintiffs' attorneys that certain persons who were original applicants were by oversight or mistake left out of the original judgment theretofore rendered, the court ordered that the applicants, Nancy JUNE Brown (as Nancy Jane Brown), Sarah Brown, Amanda Brown, Amanda E. Nichols and Rebecca E. Brown be admitted to citizenship in the Choctaw Nation.

December 17, 1902, the Choctaw and Chickasaw Citizenship

Secretary 6

Court, created under the provisions of the Act of Congress approved July 1, 1902 (32 Stat., 641), "set aside, annulled, vacated and held for naught" the aforesaid judgment of the United States Court for the Southern District of the Indian Territory.

The record in this case was subsequently certified to the Choctaw and Chickasaw Citizenship Court for a trial de novo, which court, November 29, 1904, in the case entitled William Highten Brown, et al. versus the Choctaw and Chickasaw Nations, Number 73 on the Tishomingo Docket, ordered, adjudged and decreed that the petition of the plaintiffs be denied and that they be declared not citizens of the Choctaw Nation, and not entitled to enrollment as such citizens, and not entitled to any rights whatever flowing therefrom.

December 12, 1904, orders were entered of record by the Commission to the Five Civilized Tribes dismissing the applications for the enrollment of Mary E. McCarty, William Ernan Johnston, Minnie Gertrude Brown, Henry Hilton Brown, Elbert Knightington Brown, Otis Buey Peck, Virgie Peck, Louis Herman Nichols and Golda Ula Nichols as citizens by blood of the Choctaw Nation and March 10, 1905, and order was entered of record dismissing the application for the enrollment of Fannie C. Brown as a citizen by blood of said nation

Secretary 7

for the reason that the parents of these children had been denied by a decree of the Choctaw and Chickasaw Citizenship Court.

December 12, 1904, orders were entered of record by the Commission dismissing the applications for the enrollment of Eli W. Brown, Bessie Nichols and Osa Nichols as citizens by intermarriage of the Choctaw Nation for the reason that the persons through whom they claimed their rights had been denied by a decree of the Choctaw and Chickasaw Citizenship Court.

March 30, 1906, the Commission to the Five Civilized Tribes denied the application for the enrollment of Bessie Brown as a citizen by blood of the Choctaw Nation, and on April 6, 1906 (I T D 3810-1906) the Department set aside this decision of the Commission and returned the record to this office for investigation upon its merits.

Under the regulations adopted by the Commissioner to the Five Civilized Tribes of January 2, 1906, there were filed on February 6, 1906, by Cruse, Cruse & Bleakmore, attorneys for the petitioners, Ardmore, Indian Territory, petitions praying that William M. Brown, Nancy A. Brown, Minnie Hudson, Sarah Johnston, Oscar Lee Johnston, William Brown Johnston, Rebecca Brown, Minnie Gertrude Brown, Henry

Secretary 8

Niten Brown, Edie Hill Brown, Ed V. Brown, Mary A. Johnston, Ray Lester Johnston, Emma A. Johnston, Rebecca McCarty, William A. McCarty, Mary ... McCarty, William E. Brown, Nancy Jane Brown, George Brown, Alice Brown, Bessie Brown, Clatus Brown, Clarence Brown, A. J. Peck, Polly Ann Peck, Minnie Peck, Oscar Sherman Peck, Benjamin Grant Peck, Andrew Peck, O. B. Peck, Virgie Peck, Freddie Peck, C. W. Brown, Amanda Brown, Mandy Brown, William Brown, Elbert E. Brown, Annie Jewel Brown, George C. Brown, Sarah Brown, Willie Ann Brown, Cassie Brown, Goldie Brown, J. N. Nichols, Nancy Nichols, Eliza Nichols, John W. N. Nichols, Bessie Eaton Nichols, Louis Herman Nichols, Gladys Nichols, Silva Jewel Nichols, Della May Scott, Emma Scott, Orin M. Nichols, Amanda Nichols, Myrtle Nichols, Lemie Nichols, James W. Nichols, Osa Nichols, Cora Lee Nichols and Maggie Angel be enrolled as citizens of the Choctaw Nation.

April 16, 1906, the principal petitioners, their attorneys of record and the attorneys for the Choctaw and Chickasaw Nations, were advised that a hearing would be had in this matter at the office of the Commissioner to the Five Civilized Tribes, Muskogee, Indian Territory, Monday, May 14, 1906, at nine o'clock A. M. and on the same date, William E. Brown, father of Bessie Brown, Grace, Grace & Blackmore, and Emma

Secretary 9

Field, McMurray & Cornish, were advised that on April 4, 1904, the Department had set aside the decision of the Commission to the Five Civilized Tribes of March 30, 1903, and returned the record with instructions that a full investigation be made of the rights of the said Musie Brown to enrollment as a citizen by blood of the Choctaw Nation, and that such testimony and evidence would be received at the date of the hearing on the petition.

On motion of attorneys for applicants the hearing was continued until May 21, 1904, on which date proceedings were had in the matter of said petition in pursuance to the motions above mentioned.

At the hearing William H. Brown, Cassell H. Brown, James B. Nichols and Orin M. Nichols testified that in 1894, they, together with the other applicants herein who were living at that time, petitioned the Choctaw Council for admission as citizens of the Choctaw Nation; that no action having been taken by the Council as to their case they, in 1896, appeared before the Choctaw Census Commission and made application to be enrolled upon the 1894 Choctaw Census Bill; that some time in January, 1897, they received a certificate from the Secretary of the Choctaw Advisory Board, wherein it appeared that they had been enrolled upon the 1894 Choctaw Census Bill.

Secretary 10

It appears that the applicants, William B. Brown, William H. Brown, Nancy J. Brown, Caswell A. Brown, Amanda Brown, Polly Ann Peck, Andrew J. Peck, George G. Brown, Sarah Brown, Nancy A. Brown, Nettie McCarty, Sarah Johnston, Becky Brown, Mary Johnston, Mamie (or Minnie) Hudson, Alice Brown, George Brown, Susie Brown, Maudie Brown, Willie Brown, Florence Peck, Oscar Peck, Benjamin Peck, Andrew Peck, James A. Nichols, Nancy C. Nichols, Orie M. Nichols, Amanda M. Nichols, John W. W. Nichols, Della May Scott, Nancy V. Nichols, James W. Nichols, Maggie E. Nichols, Nettie Myrtle Nichols and Lenie A. Nichols are identified upon the 1890 Census Roll of the Choctaw Nation, Blue County.

August 13, 1906, the Commissioner to the Five Civilized Tribes rendered a decision, in accordance with the opinion of the Assistant Attorney General for the Department of the Interior of February 10, 1905 (I T D 10353-1904) and December 8, 1905 (I T D 3693-1906) in the case of Lula Vest, holding that the action of the Commission to the Five Civilized Tribes and the subsequent action of the United States Court for the Southern District of Indian Territory and the Choctaw and Chickasaw Citizenship Court upon the right of the applicants who applied to said Commission in 1896, with the exception of Andrew J. Peck, was without an authority of law,

Secretary 11

and of no force and effect upon the status of said applicants as citizens of the Choctaw Nation.

We also rescinded the orders of the Commission to the Five Civilized Tribes of December 12, 1904, and March 18, 1905, dismissing the applications for the enrollment of Mary E. McCarty, William Brown Johnston, Minnie Gertrude Brown, Fannie C. Brown, Henry Niten Brown, Albert Knightington Brown, Otis Dewey Peck, Virgie Peck, Louis Herman Nichols and Golda Ula Nichols as citizens by blood of the Choctaw Nation and H. W. Brown, Beegie Nichols and Osa Nichols as citizens by intermarriage of the Choctaw Nation.

The Commissioner to the Five Civilized Tribes further held, in accordance with the opinions of the Assistant Attorney General for the Department of the Interior of March 3, 1905 (I T D 187-1905) and March 10, 1905 (I T D 9968-1905) that Nancy A. Brown, Bettie McCarty, Mary Ethel McCarty, William H. Brown, Sarah Johnston, Becky Brown, Mary Johnston, Mamie (or Minnie) Madison, Alice Brown, George Brown, Maud Brown, William Brown Johnston, Minnie Gertrude Brown, Henry Niten Brown, Fannie C. Brown, Cassell E. Brown, Maudie Brown, Willie Brown, Albert Knightington Brown, Polly A. Peck, Florence Peck, Oscar Peck, Benjamin Peck, Andrew Peck, Otis Dewey

Secretary 12

Peck, Virgie Peck, George E. Brown, Willie Emma Brown, James B. Nichols, Della May Scott, Nancy V. Nichols, John V. S. Nichols, Louis Herman Nichols, Golda Ula Nichols, Erin M. Nichols, James W. Nichols, Maggie M. Nichols, Mattie Myrtle Nichols, and Loni A. Nichols should be enrolled as citizens by blood and William B. Brown, Nancy Brown, Eli V. Brown, Amanda Brown, Sarah Brown, Nancy C. Nichols, Bessie Nichols, Amanda M. Nichols and Osa Nichols as citizens by intermarriage of the Choctaw Nation under the provisions of the Acts of Congress approved June 28, 1898 (30 Stat., 495) and July 1, 1902 (32 Stat., 641).

The applications for the enrollment of William A. McCarty, Ollie McCarty, Oscar Lee Johnston, Willie Clarence Brown, Roy Lester Johnston, Edna Arva Johnston, Teddy Golden Johnston, Rubie Bill Brown, Annie Jewell Brown, Prebble Peck Canale Brown, Edlie Brown, Emma May Scott, Lita Lois Scott, Sylvia Jewel Nichols and Oora Lee Nichols were also granted under the provisions of the Act of Congress approved April 26, 1906 (34 Stat., 137).

The application for the enrollment of Andrew J. Peck as a citizen by intermarriage was denied and the application for the enrollment of Eugene Myrtle Nichols as a citizen by blood of the Choctaw Nation was dismissed.

Secretary 13

August 11, 1906, the record in this case, together with the decision of August 13, 1906, was transmitted to the Department.

February 7, 1907, there were transmitted to the Secretary of the Interior schedules of citizens by blood and marriage of the Choctaw Nation containing the names of the persons who were favorably passed upon by the Commissioner to the Five Civilized Tribes August 13, 1906, in the Choctaw enrollment case of William B. Brown, et al., as follows:

Citizens by blood . . . Nos. 1611 to 16139, inclusive.
Citizens by marriage / . Nos. 1638 to 1648, inclusive.
Minor citizens by blood Nos. 857 to 872, inclusive.

This case was analogous to the case of Mattie Shockley, et al. (Loula West case) in which this office had been directed to suspend action until the Attorney General had passed upon the questions involved in that case, but inasmuch as the time within which persons could be enrolled and their enrollment approved by the Secretary of the Interior under the provisions of the Act of Congress approved April 28, 1906, was becoming very short, the schedules above described were prepared by this office without waiting for the opinion of the Attorney General and were forwarded to the Department in order that, if the opinion of the Attorney General were favorable, the rights of these applicants might be protected without

Secretary 24

delay, and this office requested, in the event of such favorable opinion of the Attorney General, that these schedules be approved by the Secretary of the Interior.

February 26, 1907, referring to Departmental letter of February 25, 1907 (I T B 4864-1907) requesting this office to forward a list of those persons whose enrollment should be cancelled in view of the opinion of the Attorney General of February 19, 1907, in the Choctaw enrollment cases of Loula West and William C. Thompson, the Commissioner to the Five Civilized Tribes called the attention of the Department to the schedules above described which were forwarded February 7, 1907, and advised that this case was analogous to the case of Loula West. It was, therefore, recommended that the decision of August 13, 1906, be not approved by the Department and that the schedules transmitted with office letter of February 7, 1907, be disapproved by the Secretary of the Interior.

February 26, 1907 (Lana 71830-1906, 2220, 14412-1907)
The Indian Office forwarded to the Department the record in the case of William B. Brown, et al. together with the schedules transmitted February 7, 1907, and recommended, in view of the opinion of the Attorney General of February 19, 1907, that the decision of the Commissioner of August 13, 1906, in

Secretary 15

so far as it was favorable to the applicants, be reversed and the schedules disapproved, which was done by the Department March 1, 1907 (I T D 8742-1907).

This office has no record of any favorable decision of the Department as to the persons included in this consolidated case.

No formal allotments were made to the persons included in this case but applications were made on their behalf for certain lands which were involved in Chickasaw contest cases. Subsequent to March 1, 1907, these contests were dismissed and on August 31, 1907, a motion to reinstate said contests was denied.

August 29, 1907, the Department advised this office that by letter of August 5, 1907, counsel for the claimants in the case of William B. Brown, et al. requested that the order of the Department of June 14, 1907, in the case of William C. Thompson and others, suspending action on claims to allotments of lands be made applicable to them.

September 20, 1907, this office reported that it did not appear that the claimants in the case of William B. Brown, et al. possessed the same status as the claimants in the case of William C. Thompson, et al. as their names had never been upon an approved roll, but that it appeared they occupied

Secretary 16

the same status as the persons included in the case of John H. Garblin and the case of Angus A. Spring.

October 12, 1907 (I T N 77873-1907) the Indian Office held that the action of the Commissioner to the Five Civilized Tribes in dismissing the contests on behalf of these claimants, and in refusing to reinstate the same, was proper and recommended that he be advised that all applications for allotments on behalf of these persons should be denied and this recommendation was approved by the Department October 14, 1907.

Following these instructions of the Department the lands in contest were awarded to the contestees, and patents therefor were recorded and delivered to them. It is believed, therefore, that those persons, in the event of a favorable decision relative to their enrollment, could not recover the land referred to, and if they are holding or claiming other land this office has no record of such claim.

If they are now in possession of other lands in the Cherokee and Chickasaw Nations, this office will, however, upon the receipt of description thereof, make a record of their claim to the land, pending further action by the Department.

I have further to report that the record in this case is full and complete and it is believed the applicants could

Secretary 17

add nothing material thereto at this time, and that it would work an unjustifiable hardship upon them to notify them now to appear and give further testimony in this case and force upon them the expense of a hearing at this office.

I have not, therefore, forwarded the notices referred to in Departmental letter of March 13, 1909 and Indian Office letter of April 9, 1909, but will await specific instruction from the Department as to its wishes in the matter in accordance with my request of April 4, 1909, in the Mattie Shockley case.

If it is the desire of the Department that notices be forwarded in this case, however, this office will proceed to notify the applicants thereof immediately upon receipt of advice from the Department and will make supplemental report after their replies have been received.

The petition inclosed with Indian Office letter of April 9, 1909, is herewith returned.

Respectfully,

Through the Commissioner
of Indian Affairs.

Commissioner.

1-12903

Land
31790-1909.
J. E. D.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS.
Washington.

Jun 25, 1909.

Enrollment case of
Wm. B. Brown et al.

The Commissioner

to the Five Civilized Tribes.

Muskogee, Oklahoma.

Sir:

Referring to your report of April 20, 1909, relative to the consolidated Chectaw enrollment case of William B. Brown et al., you are advised, that on June 15, 1909, the Department held that the case mentioned was not analogous to that of John E. Goldsby, and did not come within the principles announced by the Supreme Court of the United States in that case, (211 U. S. 249).

The Department, therefore, declined to take any action looking to the enrollment of any of the applicants in the consolidated case of William B. Brown et al.

A copy of approved Office letter of May 17, 1909, is inclosed for your further information.

You are requested to notify the parties in interest.

Very respectfully,

J. H. Dertch,

Acting Chief Clerk.

MMW-19
2538.

Refer in reply to
the following:

Land-
Population
24072-1910
J E B

B-32121

Address only the
Commissioner of Indian
Affairs

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,

Enrollment claim of
William B. Brown, et al.

WASHINGTON.

Mar 20 1910

The Commissioner
to the Five Civilized Tribes,
Muskogee, Oklahoma.

Sir:

On November 28, 1909, W. E. Field, attorney at law,
Washington, D. C., filed a brief in support of a motion for a
rehearing and review in the consolidated Choctaw enrollment case
of William B. Brown, et al.

There is transmitted herewith for your information a
copy of Department letter of March 22, 1910, denying said motion.
There is also inclosed a copy of Office letter of December 4,
1909, in said case.

Very respectfully,

John Francis Jr.
Acting Chief Land Division.

KN-26
8426

C.O.A.

Copy

J.W.H.

DEPARTMENT OF THE INTERIOR.

WASHINGTON.

B-7239.

Office of Indian
Affairs.
Received
Mar 22, 1910
File 21078

Commissioner of Indian Affairs.

Sir:

I petition has been filed for a rehearing and review in the matter of the Choctaw enrollment case of William M. Brown et al., which was the subject of your letter of May 17, 1909, approved June 13, 1909, recommending that the Department take no action looking to the enrollment of any of the applicants included in said case.

It is urged that the applicants were found to be entitled to enrollment by the Secretary of the Interior and that therefore they should be accorded the status of recognized citizens of the Choctaw nation. It appears, however, from the records of the Department that the decision by which they were adjudged to be entitled to enrollment, and upon which they apparently rely, was rendered by the Commissioner to the Five Civilized Tribes; that said decision was not affirmed by the Secretary of the Interior, and that the names of the applicants do not appear upon the final rolls approved by the Secretary.

Premises considered, the petition is hereby denied and you are requested to advise the parties in interest as-

accordingly. The petition and the letter received with it are inclosed for the files of your office.

This letter will be regarded as a substitute for departmental letter of March 2, 1919, relating to said case.

Very respectfully,

(Signed) Frank Pierce
First Assistant Secretary.

D-9339

Land
31790-1909
J E B

DEPARTMENT OF THE INTERIOR
OFFICE OF INDIAN AFFAIRS
Washington,

G.R.
J.V.
J.T. Jr.
W.R.B.

Enrollment case of
William B. Brown et al.

May 17, 1909.

The Honorable,

The Secretary of the Interior.

Sir:

Referring to Department letter of March 1, 1909, there is transmitted herewith a report dated April 20, 1909, from the Commissioner to the Five Civilized Tribes, relative to the enrollment case of William B. Brown et al. The history of the claim is set out fully in the reports enclosed.

The records shows, among other things, that on August 13, 1906, the Commissioner to the Five Civilized Tribes rendered a decision that Nancy A. Brown, Bettie McCarty, Mary Ethel McCarty, William B. Brown, Sarah Johnston, Becky Brown, Mary Johnston, Fannie (or Minnie) Hudson, Alice Brown, George Brown, Essie Brown, William Ernan Johnston, Minnie Gertrude Brown, Henry Hiten Brown, Fannie C. Brown, Caswell M. Brown, Handie Brown, Willie Brown, Albert Knighington Brown, Polly A. Peck, Florence Peck, Oscar Peck Benjamin Peck, Andrew Peck, Otis Dewey Peck, Virgie Peck, George G. Brown, Willie Emma Brown, James B. Nichols, Della May Scott, Nancy V. Nichols, John W. Nichols, Louis Herman Nichols, Golda Ula Nichols, Olin M.

Nichols, James W. Nichols, Maggie M. Nichols, Nettie Myrtle Nichols and Louis A. Nichols should be enrolled as citizens by blood and William E. Brown, Nancy Brown, Eli W. Brown, Amanda Brown, Sarah Brown, Nancy C. Nichols, Bessie Nichols, Amanda M. Nichols and Osa Nichols as citizens by intermarriage of the Choctaw Nation under the provisions of the Acts of Congress approved June 28, 1898 (30 Stat. L. 498) and July 1, 1902 (32 Stat., L. 641).

The applications for the enrollment of William A. McCarty, Ollie McCarty, Oscar Lee Johnston, Willie Clarence Brown, Roy Lester Johnston, Edna Arvel Johnston, Teddy Golden Johnston, Rubie Dill Brown, Annie Jewell Brown, Prebbie Peck, Cassie Brown, Goldie Brown, Nema May Scott, Lita Lois Scott, Sylvie Jewel Nichols and Cora Lee Nichols were also granted under the provisions of the Act of Congress approved April 26, 1906 (34 Stat. L. 137).

The application for the enrollment of Andrew J. Peck as a citizen by intermarriage was denied and the application for the enrollment of Daphne Myrtle Nichols as a citizen by blood of the Choctaw Nation was dismissed.

It appears that on August 14, 1906, the record in the case, together with the decision, was forwarded by the Commissioner to the Five Civilized Tribes, and that on February 7, 1907, he transmitted to the Department schedule of citizens of the Choctaw Nation by blood and by marriage, containing the names of persons who were favorably passed upon by

L. 31790-3

him in his decision of August 13, 1906, in this case. It appears also that on February 26, 1907, the Commissioner, referring to Department letter of February 23, 1907, invited the Department's attention to the above-mentioned schedules, and to the Choctaw enrollment case of William B. Brown, et al, and recommended, in view of the opinion of the Attorney General dated February 19, 1907, in the Loula West and other cases, that his decision of August 13, 1906, be not approved, and that the schedules referred to be disapproved.

On March 1, 1907, the Department reversed the decision of the Commissioner so far as it was favorable to the applicants, and disapproved the schedules containing their names.

The Commissioner to the Five Civilized Tribes reports further that his office has no record of any favorable decision of the Department as to the persons included in this case.

It appears also that their names have never been placed upon any roll or schedule of citizens of the Choctaw Nation prepared by the Commissioner to the Five Civilized Tribes and approved by the Department.

The Office concurs in the view of the Commissioner to the Five Civilized Tribes that as the record in the case is a complete one, the applicants could add nothing material thereto at this time, and to have them appear at his office

to give further testimony would only make additional expense for them and work a hardship without any benefit accruing therefrom.

On April 9, 1909, the Office requested the Commissioner to the Five Civilized Tribes to take no steps pending the preparation of his report concerning the enrollment case of William B. Brown et al toward the issuance of a patent to any adverse party in interest to the lands occupied by the applicants in the above mentioned case. The Commissioner was also requested to instruct the United States Indian Agent, at Union Agency, to suspend action, if any was contemplated, toward dispossessing the applicants of the lands occupied by them until further advised by the Department.

The Commissioner reports that no formal allotments were made to the persons included in the above case, but that applications were made in their behalf for certain lands which were involved in Chickasaw contest cases. The contests in behalf of these claimants were dismissed by the Commissioner to the Five Civilized Tribes, and on October 12, 1907, the Office held that the action of the Commissioner was proper, and recommended that he be advised that all applications for allotments in behalf of these persons should be denied.

This recommendation was approved by the Department on October 14, 1907. It appears from the report of the Commissioner to the Five Civilized Tribes that the lands in contest

L-21790-2

were awarded to the contestees and patents therefor were recorded and delivered to them. Title having passed to the contestees, the Department is now without authority to place or permit the applicants in the William E. Brown case to remain in possession of the lands covered by the patents issued to the contestees, even in the event of the Department rendering a favorable decision relative to their enrollment.

The Commissioner reports that his office has no record of the applicants in the case mentioned holding or claiming possession of any other lands in the Choctaw or Chickasaw Nations, but says that if they are in occupancy of such other lands his office will, upon receipt of a description thereof, make a record of the claims pending further action by the Department.

The Office is of the opinion that the case of William E. Brown et al., is not analogous to that of John E. Goldsby, and that it does not come within the principles announced by the Supreme Court of the United States in its decision of November 30, 1904, in that case (211 U. S. 249).

It is therefore recommended that the Department take no action looking to the enrollment of any of the applicants included in the consolidated case of William E. Brown, et al.

The record in the case, and other papers pertaining thereto, are transmitted herewith for your further information.

Very respectfully,

H. S. Valentine,
Acting Commissioner.

RHS 11

272

W. E. Brown et al.

Approved:

Frank M. Brown, Jr., Clerk.

Muskogee, Oklahoma, June 29, 1909.

Mr. Orin M. Nichols,
Comanche, Oklahoma.

Sir:

You are hereby notified that on June 15, 1909, the Secretary of the Interior held that the Choctaw enrollment case of William B. Brown et al., with which your case was consolidated, was not analogous to that of John E. Goldsby (211 U. S. 249) and declined to take any action looking to the enrollment of the applicants therein under the opinion of the Supreme Court of the United States of November 30, 1908, in said Goldsby case.

Respectfully,

WHA-KB.

Commissioner.

Land
Population
1900-1909
J E D

Enrollment case
of William B. Brown,
et al.

Dec, 4, 1909

W. B. Field, Esq.

Attorney at Law,

No. 926 Colorado Building,

Washington, D. C.

Sir:

Referring to your letter of November 26, 1909 and to the brief filed therewith, relative to the consolidated Chectaw enrollment case of William B. Brown, et al., you are advised that the statements contained in your brief do not accord with the facts in the case as shown by the record.

On March 1, 1907 the Department rendered its decision denying the applicants enrollment and disapproved the schedules containing their names. It does not appear that their names were ever on any roll or schedule of citizens of the Chectaw Nation prepared by the Commission or the Commissioner to the Five Civilized Tribes and approved by the Department or that the Department ever instructed the Commission or the Commissioner to place the names of the applicants on the roll for approval; neither does the record show that the Department ever rendered any decision favorable to their enrollment.

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L-95202-2

On May 17, 1908 the Department held that the case of William B. Brown, et al., was not analogous to that of John E. Goldsby and did not come within the principles announced by the Supreme Court of the United States in its decision of November 30, 1903 (211 U. S., 245) in that case.

The Department, therefore, declined to take any action looking to the enrollment of the applicant included in the consolidated case of William B. Brown, et al.

In view of the record in the case and of the Department's action therein, the Office can see no reason for recommending legislation in behalf of the applicants in said case.

Very respectfully,

(Signed) F. M. Abbott,

Assistant Commissioner.

HAS-30
4192

O.L.J.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of William B. Brown, et al., as citizens of the Choctaw Nation, consolidating the applications of

William B. Brown, et al.	7-5096,
William N. Brown, et al.	7-5060,
Eli W. Brown, et al.	7-D-432,
Caswell M. Brown, et al.	7-5066
Andrew J. Peck, et al.	7-5062
George G. Brown, et al.	7-5095
James B. Nichols, et al.	7-5100,
John W. B. Nichols, et al.	7-5097,
Orin M. Nichols, et al.	7-5061,
Osa Nichols, et al.	7-D-509.

D E C I S I O N.

It appears from the census card records in this case that on September 22, 1898, application was made to the Commission to the Five Civilized Tribes for the enrollment of William B. Brown (sixty-one years of age), as a citizen by intermarriage of the Choctaw Nation, and for the enrollment of his two children, Nancy A. Brown (twenty-three years of age) and Mattie Brown, now McCarty (nineteen years of age), as citizens by blood of the said nation; on September 22, 1898,, for the enrollment of William N. Brown (thirty-nine years of age), and his seven minor children, Sarah Brown, now Johnston (eighteen years of age), Becky Brown (sixteen years of age), Mary Brown, now Johnston (thirteen years of age), Mamie (or Minnie)

Brown, now Hudson (eleven years of age), Alice Brown (eight years of age), George Brown (five years of age) and Susie Brown (one year of age), as citizens by blood of the Choctaw Nation, and for the enrollment of Nancy Brown (thirty-six years of age) as a citizen by intermarriage of said nation; on September 5, 1899, for the enrollment of Eli W. Brown (twenty-eight years of age) as a citizen by intermarriage of the Choctaw Nation; on September 22, 1898, for the enrollment of Caswell M. Brown (thirty-four years of age), and his two minor children, Maudie (ten years of age) and Willie Brown (six years of age), as citizens by blood of the Choctaw Nation, and on October 18, 1898, for the enrollment of his wife, Amanda Brown (thirty-one years of age), as a citizen by intermarriage of said nation; on September 22, 1898, for the enrollment of Andrew J. Peck (thirty-two years of age) as a citizen by intermarriage of the Choctaw Nation, and for the enrollment of his wife, Polly A. Peck (thirty years of age), and his five minor children, Florence (nine years of age), Oscar (seven years of age), Benjamin G. (five years of age), Andrew (three years of age), and Otis Dewey Peck (two months of age), as citizens by blood of said nation; on September 22, 1898, for the enrollment of George G. Brown (twenty-six years of age), and his minor daughter, Willie Emma Brown (three years of age), as citizens by blood of the Choctaw Nation, and for the enrollment of his wife, Sarah Brown (twenty-one years of age), as a citizen by intermarriage of said nation; on September 22, 1898, for the enrollment of James B. Nichols (forty-eight years of age), and his two minor children, Della May Nichols, now Scott (fourteen years of age), and Nancy V. Nichols (seven years of age), as citizens by blood of the Choctaw Nation, and for the enrollment of his wife, Nancy C. Nichols, (forty-two years of age), as a

citizens by intermarriage of said nation; on September 22, 1898, for the enrollment of John W. B. Nichols (twenty-four years of age) as a citizen by blood of the Choctaw Nation, and for the enrollment of his wife, Bessie Nichols (eighteen years of age), as a citizen by intermarriage of said nation; on September 22, 1898, for the enrollment of Orin M. Nichols (forty-four years of age), and his four minor children, James W. (eighteen years of age), Maggie M. (twelve years of age), Mettie Myrtle (eight years of age), and Lonie A. Nichols (four years of age), as citizens by blood of the Choctaw Nation, and for the enrollment of his wife, Amanda M. Nichols (thirty-eight years of age), as a citizen by intermarriage of said nation; and on September 25, 1899, for the enrollment of Osa Nichols (seventeen years of age) as a citizen by intermarriage of the Choctaw nation.

Applications were subsequently made for the enrollment of the following minor applicants as citizens by blood of the Choctaw Nation: On January 20, 1902, for the enrollment of Mary Ethel McCarty (born December 8, 1901); on May 31, 1906, for the enrollment of William A. McCarty (born April 21, 1904) and Ollie McCarty (born February 14, 1906); on October 13, 1900, for the enrollment of William Erman Johnston (born June 30, 1900); on October 19, 1900, for the enrollment of Minnie Gertrude Brown (born August 13, 1900); on May 16, 1901, for the enrollment of Fannie C. Brown (born February 11, 1901); on April 29, 1905, for the enrollment of Oscar Lee Johnston (born November 14, 1902); on April 29, 1905, for the enrollment of Willie Clarence Brown (born April 8, 1903); on July 12, 1902, for the enrollment

Henry Niten Brown, (born May 21, 1902); on April 29, 1906, for the enrollment of Roy Lester Johnston (born October 28, 1903); on May 21, 1906, for the enrollment of Edna Arvel Johnston (born March 21, 1905); on April 14, 1905, for the enrollment of Rubie Dill Brown (born February 12, 1904); in 1899, for the enrollment of Elbert Knightington Brown (born October 8, 1899); on April 7, 1906, for the enrollment of Annie Jewell Brown (born December 2, 1902); on December 10, 1901, for the enrollment of Virgie Peck (born October 11, 1901); on April 8, 1905, for the enrollment of Prebble Peck (born February 19, 1904); on May 21, 1906, for the enrollment of Cassie Brown (born May 30, 1900) and Goldie Brown (born September 5, 1904); on April 17, 1905, for the enrollment of Nema May Scott (born May 15, 1903) and Lita Lois Scott (born February 1, 1906); on September 1, 1900, for the enrollment of Louis Herman Nichols (born August 19, 1900); on December 27, 1901, for the enrollment of Golda Ula Nichols (born September 15, 1901); on April 1, 1905, for the enrollment of Sylvie Jewel Nichols (born August 28, 1903); on April 14, 1905, for the enrollment of Cora Lee Nichols (born November 6, 1902); on April 6, 1901, for the enrollment of Daphne Myrtle Nichols (born February 20, 1901); and on May 21, 1906, for the enrollment of Teddy Golden Johnston (born June 15, 1905).

It appears from the records of the Commission to the Five Civilized Tribes that on September 9, 1896, in the case entitled "Nancy Cooper, et al. vs. Choctaw Nation" (1896 Choctaw Citizenship Eocket, Case No. 1418), original application was made to said Commission, under the provisions of the Act of Congress approved June 10, 1896 (29 Stats., 321), for admission to

citizenship in the Choctaw Nation of the applicants, Nancy A. Brown (as Nancy Alice Brown), Bettie McCarty (as Rebecca Elizabeth Brown), William N. Brown (as William Niten Brown), Sarah Johnston (as Sarah Elizabeth Brown), Becky Brown (as Rebecca Catherine Brown), Mary Brown (as Mary Arrillie Brown), Mamie (or Minnie) Hudson (as Minnie Ann Brown), Alice Brown, George Brown (as George Montgomery Brown), Caswell M. Brown, Maudie Brown (as Mandy E. Brown), Willie Brown (as William G. Brown), Polly A. Peck (as Polly Ann Peck), Florence Peck (as Minnie F. Peck), Oscar Peck (as Oscar S. Peck), Benjamin Peck (as Benjamin G. Peck), Andrew Peck, George G. Brown, Willia Emma Brown, James B. Nichols (as James Bruton Nichols), Della May Scott (as Mary Della May Nichols), Nancy V. (Nannie Velma Nichols), John W. B. Nichols (as John William Bethuel Nichols), Orin M. Nichols (as Orrin Maybery Nichols), James W. Nichols (as James Willis Nichols), Maggie M. Nichols (as Maggie May Nichols), Mettie Myrtle Nichols, Lonie A. Nichols (as Lena Alta Nichols), as citizens by blood of said nation, and for the admission of William B. Brown, Nancy J. Brown (as Nancy Jane Brown), Amanda Brown, Andrew J. Peck (as A. J. Peck), Sarah Brown, Nancy C. Nichols (as Nancy Caroline Nichols), and Amanda M. Nichols (as Amanda Melvina Nichols), as citizens by intermarriage of said nation; and that on December 8, 1896, said Commission rendered its decision therein, denying the application of the above named applicants for enrollment as citizens of the Choctaw Nation.

From the decision of said Commission an appeal was taken to the United States Court for the Southern District of Indian Territory, which court on December 27, 1897, in the case

entitled "Nancy J. Cooper, et al. vs. Choctaw Nation" (Southern District Citizenship Case No. 96), admitted Nancy A. Brown (as Nancy Alice Brown), Bettie McCarty (as Bettie Brown), Sarah Johnson (as Sarah Brown), Becky Brown, Mary Brown, Mamie (or Minnie) Hudson (as Mamie Brown), Alice Brown, George Brown, Susie Brown, Caswell M. Brown (as Caswell Marion Brown), Maudie Brown, Willie Brown, Polly A. Peck (as Polly Ann Peck), Florence Peck, Oscar Peck, Benjamin Peck (as Benjamin Grant Peck), Andrew Peck, George G. Brown, Willie Emma Brown, James B. Nichols (as James Bruton Nichols), Della May Scott (as Dell May Nichols), Nancy W. Nichols (as Nancy Velmor Nichols), Orin M. Nichols (as Orin Mayberry Nichols), James W. Nichols (as James Willis Nichols), Maggie M. Nichols (as Maggie May Nichols), Mettie Myrtle Nichols (as Myrtle Nichols), and Lonie A. Nichols (as Lonie Alta Nichols), as citizens by blood of the Choctaw Nation, and William B. Brown (as William Bluford Brown), Andrew J. Peck (as Andrew Jackson Peck), and Nancy C. Nichols (as Nancy Caroline Nichols), as citizens by intermarriage of said nation, and denied the applications for the admission of Nancy J. Brown (as Nancy Jane Brown), Sarah Brown, and Amanda M. Nichols (as Amanda Melvina Nichols), as citizens by intermarriage of the Choctaw Nation. The name of the applicant, Susie Brown, was interpolated in the judgment of said court, she not having been an applicant before the Commission to the Five Civilized Tribes in 1896.

On March 18, 1898, said case again came before said court upon a motion of the plaintiff's attorneys to correct the judgment of said court rendered December 20, 1897, and the court, thereupon, ordered said judgment corrected so as to admit the

applicants, Nancy J. Brown (as Nancy Jane Brown), Sarah Brown, Amanda M. Nichols (as Amanda Melvina Nichols), as citizens by intermarriage of the Choctaw Nation.

On September 28, 1898, said court rendered a supplemental judgment admitting Amanda Brown as a citizen by intermarriage of the Choctaw Nation.

On January 17, 1900, this cause again came before said court upon a motion of the defendant to strike out of the judgment theretofore rendered, certain names improperly admitted to citizenship, and said court being fully advised, ordered that the following names, Susie Brown, Andrew J. Peck as (Andrew Jackson Peck), Bettie McCarty (as Bettie Brown), and Becky Brown, be stricken from said former judgment.

Subsequently, upon the representation of the plaintiffs' attorneys that certain persons who were original applicants were by oversight or mistake left out of the original judgment theretofore rendered, the court ordered that the applicants, Nancy J. Brown (as Nancy Jane Brown), Sarah Brown, Amanda Brown, Amanda M. Nichols and Rebecca E. Brown be admitted to citizenship in the Choctaw Nation.

It further appears from the records of said Commission that on December 17, 1902, the Choctaw and Chickasaw Citizenship Court, created under the provisions of the Act of Congress approved July 1, 1902 (32 Stats., 641), "set aside, annulled, vacated and held for naught" the aforesaid judgment of the United States Court for the Southern District of Indian Territory.

Thereafter, the record in the above case was certified to the Choctaw and Chickasaw Citizenship Court, for a trial de novo, which court, on November 29, 1904, in the case entitled, "William

Neighton Brown, et al. vs. Choctaw and Chickasaw Nations" (Choctaw Chickasaw Citizenship Court Case No. 73, Tishomingo Docket), "ordered, adjudged and decreed that the petition of the plaintiffs, William Neighton Brown (or William Knighton Brown), Caswell Marion Brown, Polly Ann Peck (nse Brown), George R. Brown (or George G. Brown), Noney Ellis Brown (or Noney Alice Brown), Sarah Brown, Mary Brown, Monie Brown (or Mamie Brown), Alice Brown, George Brown, Mondie Brown (or Maudie Brown), Willie Brown, Florence Peck, Oscar Peck, Benjamin Grant Peck, Andrew Peck, William Emma Brown (or Willie Emma Brown), James Burton Nichols, (or James Bruton Nichols), Oney Mayberry Nichols (or Orin Mayberry Nichols), John William Beffle Nichols, Della May Nichols, Nancy Welner Nichols, James Willis Nichols, Maggie May Nichols, Myrtle Nichols, Lonie Alta Nichols, William Buford Brown, Nancy Caroline Nichols, Rebecca E. Brown (or Becky Brown), Rebecca C. Brown (or Rebecca Brown), Amanda Melvina Nichols, Amanda Brown, Nancy J. Brown (or Nancy Jane Brown), Sarah Brown, be denied, and that they be declared not citizens of the Choctaw Nation, and not entitled to enrollment as such citizens, and not entitled to any rights whatever flowing therefrom."

On December 12, 1904, orders were entered of record by the Commission to the Five Civilized Tribes dismissing the applications for the enrollment of Mary E. McCarty, William Herman Johnston, Minnie Gertrude Brown, Henry Niten Brown, Elbert Knightington Brown, Otis Dewey Peck, Virgie Peck, Louis Herman Nichols and Golda Ula Nichols as citizens by blood of the Choctaw Nation, and on March 18, 1905, an order was entered of record dismissing the application for the enrollment of Fannie C. Brown as a citizen by

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blood of said nation. All of said applicants were dismissed for the reason that their parents through whom they claim their rights to enrollment as citizens by blood of the Choctaw Nation, had been denied by a decree of the Choctaw and Chickasaw Citizenship Court.

On December 12, 1904, orders were entered of record by the Commission to the Five Civilized Tribes dismissing the applications for the enrollment of Eli W. Brown, Bessie Nichols and Osa Nichols as citizens by intermarriage of the Choctaw Nation, for the reason that the persons through whom they claim their rights had also been denied by a decree of the Choctaw and Chickasaw Citizenship Court.

On March 30, 1905, the Commission to the Five Civilized Tribes denied the application for the enrollment of Susie Brown as a citizen by blood of the Choctaw Nation, and on April 6, 1906 (I. T. D. 3810-1905), the Department set aside said decision of the Commission and returned the record to this office for a full investigation upon its merits.

Under the regulations adopted by the Commissioner to the Five Civilized Tribes of January 2, 1906, there was filed on February 6, 1906, by Cruce, Cruce and Bleakmore, of Ardmore, Indian Territory, attorneys for the petitioners, petitions praying that William B. Brown, Nancy A. Brown, Minnie Hudson, Sarah Johnston, Oscar Lee Johnston, William Erman Johnston, Rebecca Brown, Minnie Gertrude Brown, Henry Niten Brown, Rubie Dill Brown, Eli W. Brown, Mary A. Johnston, Roy Lester Johnston, Edna A. Johnston, Rebecca McCarty, William A. McCarty, Mary E. McCarty, William N. Brown, Nancy Jane Brown, George Brown, Alice Brown, Susie Brown, Cletus Brown, Clarence Brown, A. J. Peck, Pelly Ann Peck, Minnie Peck, Oscar Sherman Peck, Benjamin Grant Peck, Andrew Peck, O. D. Peck,

Virgie Peck, Prebble Peck, C. M. Brown, Amanday Brown, Maudy Brown, William Brown, Elbert K. Brown, Annie Jewel Brown, George G. Brown, Sarah Brown, Willie Emma Brown, Cassie Brown, Goldie Brown, J. B. Nichols, Nancy Nichols, Belma Nichols, John W. B. Nichols, Bessie Deaton Nichols, Louie Herman Nichols, Golda Eula Nichols, Silva^{Jewel} Nichols, Della May Scott, Nema Scott, Orin M. Nichols, Amanda Nichols, Myrtle Nichols, Lonie Nichols, James W. Nichols, Osa Nichols, Cora Lee Nichols and Maggie Angel be enrolled as citizens of the Choctaw Nation.

All of the above petitioners, with the exception of Ollie McCarty, Lita Lois Scott, Daphne Myrtle Nichols and Teddy Golden Johnston, are identical with the applicants for whom application has been made for enrollment as citizens of the Choctaw Nation.

On April 16, 1906, the principal petitioners, their attorneys, Cruce, Cruce & Bleakmore, of Ardmore, Indian Territory, and Messrs. Mansfield, McMurray & Cornish, attorneys for the Choctaw and Chickasaw Nations, of South McAlester, Indian Territory, were advised that the Commissioner to the Five Civilized Tribes would at his office at Muskogee, Indian Territory, on Monday, May 14, 1906, at nine o'clock A. M., hear such testimony and receive such other evidence as might be submitted by the petitioners in support of their applications for enrollment as citizens of the Choctaw Nation, and by the attorneys for the Choctaw and Chickasaw Nations.

On April 16, 1906, William N. Brown, father of Susie Brown, Cruce, Cruce & Bleakmore, attorneys for said Susie Brown, and Mansfield, McMurray & Cornish, attorneys for the Choctaw and Chickasaw Nations, were advised that on April 6, 1906, the Department set aside the decision rendered by the Commission on March 30, 1906, and returned the record in said case with in-

structions that a full investigation be made of the rights of said Susie Brown to enrollment as a citizen by blood of the Choctaw Nation; that the testimony of creditable witnesses be required showing her Choctaw blood, if any, the time and place of her birth, her various residences, her ancestors, the privileges, if any, enjoyed by her and her parents as citizens of the Choctaw Nation; and notified that the Commissioner to the Five Civilized Tribes would at his office at Muskogee, Indian Territory, on Monday, May 14, 1906, at nine o'clock A. M., hear such testimony and receive such other evidence as might be submitted in support of said application, investigation to be conducted along the lines indicated by Department letter above referred to.

On motion of Attorney for applicants, the hearing in the matter of the above application was continued on April 26, 1906, to May 21, 1906.

On May 21, 1906, proceedings were had in the matter of said applications in pursuance to the notices above mentioned.

It appears from the record herein that the applicants, William N. Brown, Caswell M. Brown, Polly Ann Peck, George G. Brown, Nancy A. Brown and Bettie McCarty, are the children of the principal applicant, William B. Brown, and Rebecca Cooper (now deceased), who is alleged to have been a Choctaw Indian, and the daughter of William Cooper, who was the son of Johnny Cooper, an alleged Choctaw Indian, who resided near the line between the states of Tennessee and Mississippi; that Sarah Johnston, Becky Brown, Mary Johnston, Mamie (or Minnie) Hudson, Alice Brown, George Brown, Susie Brown, Fannie C. Brown and Willie Clarence Brown, are the children of the applicants

William N. Brown and Nancy J. Brown, (the latter an applicant for intermarried rights); that William Erman, Oscar Lee and Teddy Golden Johnston are the children of the applicant, Sarah Johnston, and J. A. Johnston, a non-citizen; that Minnie Gertrude, Henry Niten and Rubie Dill Brown are the children of the applicants, Becky Brown and Eli W. Brown, (the latter an applicant for intermarried rights); that Roy Lester and Edna Arvel Johnston are the children of the applicant, Mary Johnston, and Jace J. Johnston, a non-citizen; that Maudie, Willie, Elbert Knightington, and Annie Jewell Brown are the children of the applicant, Caswell M. Brown and Amanda Brown (the latter an applicant for intermarried rights); that Florence, Oscar, Benjamin, Andrew, Otis Dewey Virgie and Prebble Peck are the children of the applicant, Polly Ann Peck and Andrew J. Peck (the latter an applicant for intermarried rights); that Willie Emma, Cassie and Goldie Brown are the children of the applicants, George G. Brown and Sarah Brown (the latter an applicant for intermarried rights); that Mary Ethel, William A. and Ollie McCarty are the children of the applicant, Bettie McCarty, and Oliver McCarty, a non-citizen; that James B. Nichols and Orin M. Nichols are the children of Wilson Nichols (now deceased), a non-citizen, and Delitha Cooper (now deceased), who is alleged to have been a Choctaw Indian and the daughter of John Cooper, above referred to; that John W. B. Nichols, Della May Scott and Nancy W. Nichols are the children of the applicant, James B. Nichols and Nancy C. Nichols (the latter an applicant for intermarried rights); that Louie Herman, Golda Ula and Sylvie Jewel Nichols are the children of the applicant, John W. B. Nichols and Bessie Nichols (the latter an applicant for

intermarried rights); that Nema May and Lita Lois Scott are the children of the applicant, Della May Scott, and Burris Scott, a non-citizen; that James W., Maggie M., Mettie Myrtle and Lonie A. Nichols are the children of the applicant, Orin M. Nichols and Amanda M. Nichols (the latter an applicant for intermarried rights); and that the applicant, Cora Lee and Daphne Myrtle Nichols, are the children of the applicants, James W. Nichols and Osa Nichols (the latter an applicant for intermarried rights).

The applicant, William B. Brown, claims his right to citizenship in the Choctaw Nation by the virtue of his marriage on February 10, 1858, under the laws of the state of Arkansas, to Becky Cooper (now deceased); that Nancy Brown claims her right to enrollment as a citizen by intermarriage by virtue of her marriage to the applicant, William N. Brown, on September 21, 1879; that Eli W. Brown claims his right to enrollment as a citizen by intermarriage by virtue of his marriage on August 21, 1899, under the laws, customs and usages of the Chickasaw Nation to the applicant, Becky Brown, both of said applicants being at said time residents in good faith of the Chickasaw Nation; that Amanda Brown claims her right to enrollment as a citizen by intermarriage by virtue of her marriage on December 2, 1886, to the applicant, Caswell M. Brown; that Andrew J. Peck claims his right to enrollment as a citizen by intermarriage by virtue of his marriage on December 15, 1887, under the laws of the state of Arkansas to the applicant, Polly A. Peck; that Sarah Brown claims her right to enrollment as a citizen by intermarriage by virtue of her marriage to George G. Brown on June 9, 1895; that the applicant, Nancy G. Nichols, claims her right to enrollment as a citizen by intermarriage by virtue of her marriage to the applicant, James F.

Nichols, on March 9, 1873; that the applicant, Bessie Nichols, claims her right to enrollment as a citizen by intermarriage by virtue of her marriage on September 11, 1898, to the applicant, John W. B. Nichols; that Amanda M. Nichols claims her right to enrollment as a citizen by intermarriage by virtue of her marriage on October 20, 1878, to the applicant, Orin M. Nichols; and that Osa Nichols claims her right to enrollment as a citizen by intermarriage by virtue of her marriage on April 27, 1899, to the applicant, James W. Nichols.

It does not appear from the record herein or from the records in the possession of this office that the applicant, Andrew J. Peck, has ever been admitted to Choctaw citizenship by a duly constituted court or committee of the Choctaw Nation, nor has said applicant ever been married to Pally Ann Peck, through whom he claims his intermarried rights, by virtue of a license issued by the tribal authorities of either the Choctaw or Chickasaw Nation.

At the hearing before the Commissioner to the Five Civilized Tribes on May 21, 1906, William N. Brown, Caswell M. Brown, James B. Nichols and Orin M. Nichols testified that in 1894, they, together with the other applicants herein who were living at said time, petitioned the Choctaw Council for admission as citizens of the Choctaw Nation; that no action having been taken thereon, they, in 1896, appeared before the Choctaw Census Commission and made application to be enrolled upon the 1896 Choctaw Census Roll; and that some time in January, 1897, they received a certificate from the Secretary of the Choctaw Advisory Board, wherein it appeared that they had been enrolled upon the 1896 Choctaw Census Roll. Said applicants further testified

that prior to 1896 they had been permitted to issue permits for their tenants, held lands, and were not subject to any tribal tax which was due from all non-citizens who were engaged in the mercantile business.

On June 4, 1906, John H. Gamblin testified that he was acquainted with the applicants herein, and that in October, 1894, he having business before the Choctaw Council, presented on behalf of the applicants herein who were living at that time, a petition praying that they be admitted as citizens of the Choctaw Nation, and that he does not know what action, if any, was ever taken thereon.

Upon an examination of the tribal rolls of the Choctaw Nation in the possession of this office, it appears that the applicants, William B. Brown, William N. Brown, Nancy J. Brown, Caswell M. Brown, Amanda Brown, Polly Ann Peck, Andrew J. Peck, George G. Brown, Sarah Brown, Nancy A. Brown, Bettie McCarty, Sarah Johnston, Becky Brown, Mary Johnston, Mamie (or Minnie) Hudson, Alice Brown, George Brown, Susie Brown, Maudie Brown, Willie Brown, Florence Peck, Oscar Peck, Benjamin Peck, Andrew Peck, James B. Nichols, Nancy C. Nichols, Orin M. Nichols, Amanda M. Nichols, John W. B. Nichols, Della May Scott, Nancy V. Nichols, James W. Nichols, Maggie M. Nichols, Mettie Myrtle Nichols and Lonie A. Nichols, are identified upon the 1896 Choctaw Census Roll opposite numbers 1688, 1691, 1692, 1701, 1702, 10518, 10517, 1705, 1706, 1689, 1690, 1693, 1694, 1695, 1696, 1697, 1698, 1699, 1703, 1704, 10519, 10520, 10521, 10522, 9803, 9808, 9812, 9813, 9809, 9810, 9811, 9814, 9815, 9816 and 9817, respectively.

It further appears from the record herein that all of

the applicants, that were living on June 28, 1898, were residents in good faith of the Indian Territory on said date.

The evidence in this case further shows that the applicant, Daphne Myrtle Nichols, died on June 27th 1901.

I am of the opinion that in accordance with the opinions of the Assistant Attorney General for the Department of the Interior of February 10, 1905 (I. T. D. 10363-1904) and December 8, 1905 (I. T. D. 3693-1905), in the case of Lula West, the action of the Commission to the Five Civilized Tribes, and the subsequent action of the United States Court for the Southern District of Indian Territory, and the Choctaw and Chickasaw Citizenship Court, upon the right of the applicants who applied to the Commission to the Five Civilized Tribes in 1896, with the exception of Andrew J. Peck, was without authority of law, and of no force and effect upon the status of said applicants as citizens of the Choctaw Nation.

I am further of the opinion that the orders of the Commission to the Five Civilized Tribes of December 12, 1904 and March 18, 1905, dismissing the applications for the enrollment of Mary E. McCarty, William Herman Johnston, Minnie Gertrude Brown, Fannie C. Brown, Henry Niten Brown, Elbert Knightington Brown, Otis Dewey Peck, Virgie Peck, Louis Herman Nichols and Golda Ula Nichols as citizens by blood of the Choctaw Nation, and Eli W. Brown, Bessie Nichols and Osa Nichols as citizens by inter-marriage of the Choctaw Nation, should be rescinded.

I am further of the opinion that in accordance with the opinions of the Assistant Attorney General for the Department of the Interior of March 3, 1905 (I. T. D. 127-1905) and March 19,

1906 (I. T. D. 9969-1905), Nancy A. Brown, Bettie McGarty, Mary Ethel McGarty, William W. Brown, Sarah Johnston, Becky Brown, Mary Johnston, Mamie (or Minnie) Hudson, Alice Brown, George Brown, Susie Brown, William Herman Johnston, Minnie Gertrude Brown, Henry Niten Brown, Fannie C. Brown, Caswell M. Brown, Maudie Brown, Willie Brown, Elbert Knightington Brown, Polly A. Peck, Florence Peck, Oscar Peck, Benjamin Peck, Andrew Peck, Otis Dewey Peck, Virgie Peck, George G. Brown, Willie Emma Brown, James B. Nichols, Della May Scott, Nancy V. Nichols, John W. B. Nichols, Louie Herman Nichols, Golda Ula Nichols, Orin M. Nichols, James W. Nichols, Maggie M. Nichols, Mettie Myrtle Nichols and Lonie A. Nichols should be enrolled as citizens by blood of the Choctaw Nation, under the provisions of the Acts of Congress approved June 28, 1898 (30 Stats., 495) and July 1, 1902 (32 Stats., 641), and it is so ordered.

I am further of the opinion that William B. Brown, Nancy Brown, Eli W. Brown, Amanda Brown, Sarah Brown, Nancy G. Nichols, Bessie Nichols, Amanda M. Nichols and Osa Nichols should be enrolled as citizens by intermarriage of the Choctaw Nation, under the provisions of the Acts of Congress approved June 28, 1898 (30 Stats., 495) and July 1, 1902 (32 Stats., 641), and it is so ordered.

I am further of the opinion that the application made for the enrollment of Andrew J. Peck as a citizen by intermarriage of the Choctaw Nation should be denied, under the provisions of the Act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered.

I am further of the opinion that William A. McGarty, Ollie McGarty, Oscar Lee Johnston, Willie Clarence Brown, Roy

Lester Johnston, Edna Arvel Johnston, Teddy Golden Johnston, Rubie Dill Brown, Annie Jewell Brown, Prebbie Peck, Cassie Brown, Goldie Brown, Mama May Scott, Rita Lois Scott, Sylvie Jewel Nichols and Cora Lee Nichols should be enrolled as citizens by blood of the Choctaw Nation, under the provisions of the act of Congress approved April 28, 1906 (Public No. 129), and it is so ordered.

I am further of the opinion that the application made for the enrollment of Daphne Myrtle Nichols as a citizen by blood of the Choctaw Nation should be dismissed, and it is so ordered.

Tams Bixby,

COMMISSIONER.

Muskogee, Indian Territory,

Aug. 13, 1906.

Muskogee, Indian Territory, August 13, 1906.

Orin M. Nichols,

Comanche, Indian Territory.

Dear Sir:

Inclosed herewith you will find a copy of the decision of the Commissioner to the Five Civilized Tribes, rendered August 13, 1906, granting the application for the enrollment of yourself, your children, Maggie M. Nichols, Nettie Myrtle Nichols and Lonie A. Nichols as citizens by blood, and of your wife, Amanda M. Nichols, as a citizen by intermarriage of the Choctaw Nation.

The decision, with the record of proceedings in the case, is this day transmitted to the Secretary of the Interior for review. The final decision of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

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Commissioner.

Registered.

HAH 12/13'

Muskogee, Indian Territory, August 13, 1906.

Cruce, Cruce & Bleakmore,

Attorneys at Law,

Ardmore, Indian Territory,

Gentlemen:

Inclosed herewith you will find a copy of the decision of the Commissioner to the Five Civilized Tribes, rendered August 13, 1906, granting the application for the enrollment of Nancy J. Brown, Nettie McCarty, Mary Ethel McCarty, William W. Brown, Sarah Johnston Becky Brown, Mary Johnston, Marie (or Winnie) Hudson, Alice Brown, George Brown, Thelie Brown, William Brown Johnston, Winnie Gertrude Brown, Henry Witten Brown, Tannie C. Brown, Cassell M. Brown, Maudie Brown, Willie Brown, Albert Knightington Brown, Polly A. Peck, Florence Peck, Oscar Peck, Benjamin Peck, Andrew Peck, Otis Dewey Peck, Virgie Peck, George G. Brown, Willie Emma Brown, James E. Nichols, Della May Grett, Nancy V. Nichols, John W. S. Nichols, Louis Herman Nichols, Golda Ula Nichols, Orin M. Nichols, James W. Nichols, Margie M. Nichols, Nettie Myrtle Nichols, Lonie A. Nichols, William A. McCarty, Ollie McCarty, Oscar Lee Johnston, Willie Clarence Brown, Ray Lester Johnston, Edna Arvel Johnston, Teddy Golden Johnston, Rubie Dill Brown, Annie Jewell Brown, Prebbie Peck,

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Cassie Brown, Goldie Brown, Nema M. Scott, Lita Lois Scott, Sylvia Jewel Nichols and Cora Lee Nichols, as citizens by blood, and for the enrollment of William E. Brown, Nancy Brown, Eli W. Brown, Amanda Brown, Sarah Brown, Nancy C. Nichols, Nannie Nichols, Annie M. Nichols and Gus Nichols, as citizens by intermarriage, of the Cheetan Nation; denying the application for the enrollment of Andrew J. Beck, as a citizen by intermarriage, and dismissing the application for the enrollment of Daphne Myrtle Nichols as a citizen by blood of the Cheetan Nation.

The decision, with the record of proceedings in the case, is this day transmitted to the Secretary of the Interior for review. The final decision of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

Registered,

Commissioner.

Encl. RAN 17/11

Muskogee, Indian Territory, August 13, 1906.

Mansfield, McMurray & Cornish,

Attorneys for Choctaw and Chickasaw Nations,

South McAlester, Indian Territory,

Gentlemen:

Inclosed herewith you will find a copy of the decision of the Commissioner to the Five Civilized Tribes, rendered August 13, 1906, granting the application for the enrollment of Nancy A. Brown, Bettie McCarty, Mary Ethel McCarty, William E. Brown, Sarah Johnston, Becky Brown, Mary Johnston, Mamie (or Minnie) Hudson, Alice Brown, George Brown, Susie Brown, William Erman Johnston, Minnie Gertrude Brown, Henry Witen Brown, Fannie C. Brown, Caswell W. Brown, Maudie Brown, Willie Brown, Albert Knightington Brown, Polly A. Peck, Florence Peck, Oscar Peck, Benjamin Peck, Andrew Peck, Otis Dewey Peck, Virgie Peck, George G. Brown, Willie Anna Brown, James E. Nichols, Della May Scott, Nancy V. Nichols, John W. E. Nichols, Louis Herman Nichols, Golda Ula Nichols, Orin W. Nichols, James W. Nichols, Vagrie W. Nichols, Nettie Myrtle Nichols, Lonie A. Nichols, William A. McCarty, Ollie McCarty, Oscar Lee Johnston, Willie Clarence Brown, Roy Lester Johnston, Anna Arvel Johnston, Teddy Golden Johnston, Rabie Dill Brown, Annie Jewell Brown, Prebble Peck,

Manfield, McMurray & Cornish--2

Cassie Brown, Goldie Brown, Nema May Scott, Lita Lois Scott, Sylvia Jewel Nichols and Cora Lee Nichols, as citizens by blood, and for the enrollment of William B. Brown, Nancy Brown, Eli W. Brown, Amanda Brown, Sarah Brown, Nancy C. Nichols, Bessie Nichols, Amanda M. Nichols and Osa Nichols, as citizens by intermarriage, of the Choctaw Nation; denying the application for the enrollment of Andrew J. Peck as a citizen by intermarriage, and dismissing the application for the enrollment of Daphne Myrtle Nichols as a citizen by blood, of the Choctaw Nation.

The decision, with the record of proceedings in the case, is this day transmitted to the Secretary of the Interior for review. The final decision of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

Registered.

Incl. HAM 17/11

Commissioner.

D. C. 14887-1907.

SPECIAL.

JFJR.
LLB

DEPARTMENT OF THE INTERIOR,

WASHINGTON. March 1, 1907.

I. T. D. 5742-1907.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

On February 28, 1907 (Land 14412), the Indian Office transmitted your report dated August 14, 1906, in the matter of the application of William B. Brown et al. for enrollment as citizens of the Choctaw Nation, together with your decision of August 13, 1906, favorable to said applicants.

On February 7, 1907, you transmitted schedules of citizens of the Choctaw Nation, as follows: Citizens by blood, Nos. 16121 to 16159, inclusive; citizens by marriage, Nos. 1637 to 1646, inclusive, and minor citizens by blood, Nos. 867 to 872, inclusive.

You recommend that if your decision in this case is affirmed by the Department that said schedules be approved.

The Indian Office reports that the applicants in this case are precluded from enrollment by reason of an adverse decision of the Choctaw and Chickasaw Citizenship Court dated November 29, 1904. It accordingly recommends that the applications of all parties to this case be denied, and that the schedules transmitted be disapproved. A copy of its letter is inclosed.

In view of the decision of the Attorney-General dated

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February 19, 1907, in the case of Loula West et al., your decision dated August 13, 1906, is hereby reversed.

The schedules transmitted are disapproved, and three copies of each are returned herewith. The originals, a carbon copy hereof, and the papers in the matter have been sent to the Indian Office.

Respectfully,

E. A. Hitchcock,

Secretary.

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DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,

WASHINGTON. February 28, 1907.

The Honorable,

The Secretary of the Interior.

Sir:

Referring to Departmental letter of April 6, 1906 (I. T. D. 3810-1905), there is forwarded herewith report of Commissioner Bixby, dated August 14, 1906, relative to the application of William B. Brown, et al., for enrollment as citizens of the Choctaw Nation, with the decision of the Commissioner, dated August 13, 1906, admitting certain of the petitioners and denying the applications of others.

The applicants in this case are as follows:

William B., Nancy A., Bettie, William N., Sarah, Becky, Mary, Mamie or Minnie, Alice, George, Susie, Eli W., Nancy, Caswell M., Maudie, Willie, Amanda, George G., Willie, Emma, Sarah, Minnie, Gertrude, Fannie C., Willie Clarence, Henry Niten, Rubie Dill, Elbert Knightington, Annie Jewell, Cassie, and Goldie Brown; Andrew J., Pelly A., Florence, Oscar, Benjamin G., Andrew, Otis Dewey, Virgie, and Prebble Peck; James B., Della May, Nancy V., Nancy C., John W. B., Bessie, Orin M., James W., Maggie M., Nettie Myrtle, Lenie A., Amanda M., Osa, Louie Herman, Goldie Ula, Sylvie Jewell, Cera Lee, and Daphne Myrtle Nichols; Mary Ethel, William A., and Ollie McCarty; William Erman, Roy Lester, Edna Arvel, and

Teddy Golden Johnston; Nema May and Lita Lois Scott.

It appears from the record herein that on September 9, 1896, in the case of "Nancy Cooper, et al., vs. the Choctaw Nation," original application was made to the Commission to the Five Civilized Tribes under the provisions of the act of June 10, 1896 (29 Stat. L., 321) for admission to citizenship in the Choctaw Nation of certain of the applicants herein; that the Commission rendered its decision therein on December 8, 1896, denying the application for enrollment of certain of the above named persons; that from this decision an appeal was taken to the United States Court for the Southern District of the Indian Territory, which court on December 27, 1897, in the case entitled "Nancy J. Cooper, et al., vs. the Choctaw Nation," admitted certain of the applicants therein as citizens by blood and intermarriage of the Choctaw Nation, and denied the applications of others.

On March 18, 1898, September 28, 1898, and January 17, 1900, the case again came before the United States District Court and certain applicants who were omitted in the original decree were added and certain others who were included in the original decree were stricken out.

On December 17, 1902, the Choctaw and Chickasaw Citizenship Court "set aside, annulled, vacated and held for naught" the aforesaid judgment of the United States District Court.

Thereafter the record in the case was certified to the Cheetaw and Chickasaw Citizenship Court for trial de novo, which court on November 29, 1904, in the case entitled William Neighten Brown, et al., vs. the Cheetaw and Chickasaw Nations, "ordered, adjudged and decreed that the petition be denied, and that the persons therein included be declared not citizens of the Cheetaw Nation and not entitled to enrollment as such citizens, and not entitled to any rights whatever flowing therefrom."

The following named persons were included in the above judgment:

William Neighten, Caswell Marion, George R., Honey Ellis, Sarah, Mary, Momie or Mamie, Alice, George, Mondie or Maudie, Willie, William Emma, William Buford, Rebecca K., Rebecca C., Amanda, Nancy J., and Sarah Brown; Florence, Pelly Ann, Oscar, Benjamin Grant, and Andrew Peck; James Burton, Oney Mayberry, John William Beffle, Della May, Nancy Velmor, James Willis, Maggie May, Myrtle, Lonie Alta, Nancy Caroline, and Amanda Melvina Nichols.

It further appears from the record that all of the applicants herein who were not included in the judgment of the Cheetaw and Chickasaw citizenship court of November 29, 1904, have only such right to enrollment as accrues to them through their relationship by blood or intermarriage to those who were included in that judgment.

Under the ruling of the Attorney General of the United States, of February 19, 1907, in the case of Loula West, and

Myrtle Randolph, analogous hereto, the judgment of the Choctaw and Chickasaw Citizenship Court of November 29, 1904, is final as to the right to enrollment of the applicants included therein.

As to such of the applicants now under consideration and who were included in that judgment, it is recommended that they be now denied enrollment and their applications dismissed.

As to all the other applicants herein, it appearing that they possess only such right to enrollment as accrues to them through their relationship by blood or intermarriage to those included in the judgment of the Choctaw and Chickasaw Citizenship Court, it is also recommended that their petitions be now denied.

There is inclosed herewith a schedule containing the names of the applicants in this case, and it is recommended that it be disapproved.

Very respectfully,

C. F. Larrabee,

Acting Commissioner.

AJW:LM

D.C. 16613.
I.T.D. 6910-1907.
L.R.S.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

J.Y.Jr.
LJB

March 11, 1907L

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

The receipt is acknowledged of your communication of February 26, 1907, calling the attention of the Department to the fact that the Choctaw enrollment case of William B. Brown et al. falls within the opinion of the Attorney-General dated February 19, 1907, in the Choctaw enrollment cases of Loula West et al. and William C. Thompson et al.

You recommend that your decision of August 14, 1906, in this case be not approved by the Department, and that the schedules transmitted with your letter of February 7, 1907, be disapproved by the Department.

You are advised that on March 1, 1907, the Department reversed your decision in the matter of the application of William B. Brown et al., in view of the opinion of the Attorney-General above mentioned and disapproved the schedules containing the names of the parties to this case forwarded by you.

Respectfully,

Jesse E. Wilson,

Assistant secretary.

1 inclosure, to I.O.

Through the Commissioner
of Indian Affairs.

No. 16

United States Court,
INDIAN TERRITORY.

San Felipe District.

San Felipe
at
San Felipe
TRANSCRIPT OF PROCEEDINGS IN SUIT.

TRANSCRIPT OF PROCEEDINGS.

United States Court,

INDIAN TERRITORY,

SS:

Southern

District.

At a stated term of the United States Court in the Indian Territory, Southern District, begun and had in the Court Rooms, at Ardmore, in the Indian Territory, on the 28th day of September, in the year of our Lord one thousand eight hundred and ninety-eight

Present, the Hon. Hosen Townsend, Judge of said Court.

On the 28th day of September, 1898, being a regular day of said term of said Court, among the proceedings had were the following, to wit:

Nancy J. Cooper, et al.

Entered Nunc Pro Tunc Dec. 20, 1897.

vs. #96

Supplemental Judgment.

Choctaw Nation.

It appearing to the court that the judgment heretofore entered in this cause does not show that Rosa Been, Julia Ann Been, and Amanda Been were admitted to citizenship and that judgment was rendered admitting the said Rosa Been, Julia Ann Been and Amanda Been, each and all as members of the Choctaw Tribe of Indians, but that by oversight or mistake their names were omitted from said ^{original} judgment. It is therefore ordered, adjudged and decreed by the court that the plaintiffs, the said Rosa Been, Julia Ann Been and Amanda Been, be and are each and all members by intermarriage of the Choctaw Tribe of Indians, and are entitled to be enrolled as members of said tribe of Indians by marriage. And the Clerk of this court is hereby ordered and directed to forward a certified copy of this judgment to the proper authorities for the enrollment of the said Rosa Been, Julia Ann Been and Amanda Been, and that they each and all be enrolled by said authorities as members of said Choctaw Tribe of Indians.

It is further ordered that this judgment be entered by the Clerk nunc pro tunc, as of the date of the original judgment filed herein.

United States Court,

INDIAN TERRITORY

Sealed
District

I, *John J. Campbell*, Clerk of the United States Court within
and for the District and Territory aforesaid, do hereby certify, that the foregoing
orders are truly taken, and correctly copied from Court Journals of said Court, as
the same appears to me.

In Testimony whereof, I have hereunto set my hand and affixed
the Seal of said Court, at

this *22* day of *April*, A. D. 18*92*

C. M. Campbell Clerk

Clerk

Deputy

No. 96

United States Court,

INDIAN TERRITORY.

District.

VS.

TRANSCRIPT OF PROCEEDINGS IN SUIT.

TRANSCRIPT OF PROCEEDINGS.

United States Court,

INDIAN TERRITORY.

SS.

Southern

District.

At a stated term of the United States Court in the Indian Territory, Southern District, begun and had in the Court Rooms, at Ardmore, in the Indian Territory, on the 15th day of November, in the year of our Lord one thousand eight hundred and ninety-seven

Present, the Hon. Hessa Townsend, Judge of said Court.

On the 12th day of March, 1897, being a regular day of said term of said Court, among the proceedings had were the following, to wit:

Nancy J. Cooper, et al.,

vs. ~~the~~

Judgment:

Choctaw Nation.

This day this cause coming on upon the motion of plaintiff's attorney to correct the judgment filed herein on Dec. 20th, 1897, at the present term of this court, and it appearing that an error was committed in the rendition of said judgment and the court being sufficiently advised in the whole case, doth order, adjudge and decree that said judgment be corrected so as to admit the applicants, Nancy June Boen, Sarah Boen, Lizzie Sanders, Martha Jane Sanders, Fannie Sanders, Amanda Malvina Nichols, Mary Boen, and Louisa Higgins, as members of the Choctaw Tribe of Indians by intermarriage. It appearing that they were rejected by the former judgment of this court by oversight and mistake. It is further adjudged that each of the above named parties have all of the rights, privileges and immunities as members of the Choctaw Tribe of Indians by intermarriage. And the Clerk of this court in transmitting the original judgment of this court to the Commission to the Five Civilized tribes of Indians is directed to transmit this supplemental judgment, and same is intended to be, and shall be a part of the original judgment herein, and the said commission is hereby directed to enroll each and all the above named parties in connection with the other

parties named in the original judgment as members of the Choctaw Tribe of Indians by intermarriage. To all of which the defendant in open court excepted.

United States Court,

INDIAN TERRITORY,

SS:

Southern District.

I, C. M. Campbell, Clerk of the United States Court within and for the District and Territory aforesaid, do hereby certify, that the foregoing orders are truly taken, and correctly copied from Court Journals of said Court, as the same appears to me.

In Testimony Whereof, I have hereunto set my hand and affixed

the Seal of said Court, at Ardmore,

this 14th day of March, 1903, A. D. 1903

C. M. Campbell, Clerk.

By *A. H. McCoy*, Deputy.

Clerk.

be amended and corrected to Earl Long in accordance with the facts.

The Clerk of this Court is hereby ordered and directed to certify a copy of this Judgment to the Dawes Commission, and said Commission is hereby ordered and directed to enroll said parties as citizens of the Choctaw Nation.

Hosea Townsend, Judge.

UNITED STATES OF AMERICA.)
Indian Territory)
Southern District.)

I, C. M. Campbell, Clerk of the United States Court, within and for the Southern District of the Indian Territory do hereby certify that the above and foregoing is a true and perfect copy of an order of court, as the same appears of file and record in my office.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said Court, at my office in Ardmore, Indian Territory, this 14th day of March, 1903.

C. M. Campbell, Clerk.

A. H. McEay
Deputy Clerk.

admitted therein to such citizenship and that the name of "____ Long"

~~THE COURT HEREBY CERTIFIES THAT THE ABOVE IS A TRUE AND PERFECT COPY OF AN ORDER OF COURT AS THE SAME APPEARS OF FILE AND RECORD IN MY OFFICE.~~

~~WITNESSED MY HAND AND SEAL OF SAID COURT AT ARDMORE, INDIAN TERRITORY, THIS 14TH DAY OF MARCH, 1903.~~

By _____
Deputy.

Clerk.

Nancy J. Cooper et al)
vs.)
CHEETAH NATION.)

96

FINAL JUDGMENT.

(U. G. Winn for Pliffs.)

This cause coming on to be heard on this the 26th. day of December 1897 upon the Master's report and exceptions thereto and it appearing therefrom that the plaintiffs in this case hereafter mentioned and set forth are Cheataw Indians by blood and by intermarriage and as such are entitled to citizenship in the Cheataw Nation.

And it appearing also from the evidence in this case that the said applicants are Cheataw Indians by blood and by inter-marriage and it appearing also that these applicants have duly filed their applications for citizenship before the "Brewer Commission" and have duly appealed therefrom to this court.

And it appearing that the following named persons are Cheataw Indians by blood and are all residents of the Indian Territory except Samuel H. Cooper, William Houston Cooper, John Cooper Jr., Benora Ann Cooper, te-wit: Rebecca Brown (nee Cooper), William Knighton Brown, Caswell Mar-
rison Brown, Felly Ann Peck (nee Brown), George G. Brown, Nancy Alice Brown, Bettie Brown, Sarah Brown, Becky Brown, Mary Brown, Mamie Brown, Alice Brown, George Brown, Susie Brown, ^{Mamie} Maud Brown, Willie Brown; Florence Peck, Oscar Peck, Benjamin Grant Peck, Andrew Peck, Willie Anna Brown, Arty Minoy Sam-
ders, John Newton Sanders, Jessie Wilson Sanders, Joseph Monroe Sanders, Elijah McFadden Sanders, Amanda Minerva Reynolds, (nee Sanders), Jasper Estain Sanders, Mary Sanders, Monroe Sanders, William Newton Sanders, Thomas Wilson Sanders, Minnie Rachel Sanders, Nancy Ellen Sanders, James Sanders, John W. Sanders, James M. Sanders, and Iney May Sanders, William Beall Sanders, Minoy Reynolds, James Bruton Nichols, Orrin Mayberry Nich-
ols, John William Beffle Nichols, Della May Nichols, Nancy Velmar Nichols, James Willis Nichols, Maggie May Nichols, Myrtle Nichols, Lenie Alte Nich-
ols, Felly Brown (nee Cooper), Jane Campbell (nee Cooper), William Houston Brown, George Washington Brown, Rosie Isabel Higgins (nee Brown), Nancy
Barthana Brown, Elizabeth Jane Brown, James ^{Spencer} Brown, Jessie Anderson Brown Jr., Eliza Jane Brown, Lena May Brown, Rosa Elvina Brown, Jessie
Anderson Brown Jr., William Quitman Higgins, (Nancy J. Long nee Brown,
now deceased) Mandie Long, William Long, George Long, Sidney Long, Pearley

Long and ---Long, James Salathiel Campbell, Leona Isabel Campbell, Lucinda Louella Campbell, Walter Scott Campbell, Amanda Jane Ofelter (nee Campbell), Charley J. Ofelter, John P. Ofelter, Amanda M. Ofelter, Mary Rebecca Martin (nee Cooper), Clodonia Martin, James Henry Martin, George Washington Martin, Rosa Clary Martin, (Nancy Cooper) now deceased.

And it appearing that the following named parties have inter-married with the above named parties who are Indians by blood on the dates

and under the laws hereafter mentioned to-wit: William Bluford Brown married to Rebecca Cooper under the laws of Arkansas in the year 1857 Nancy Jane Brown nee Hurien (married to William Knighton Brown under the laws of Arkansas in or about the year 1879) Amanda Brown nee Kelly married to Caswell Marion Brown under the laws of Arkansas in or about the year 1888 Andrew Jackson Peek (married to Pelly Ann Brown under the laws of Arkansas in the year 1887) Sarah Brown nee Johnson (married to George O. Brown under the laws of Arkansas in the year 1894) Lizzie Sanders nee Harris (married to Jessie Wilson Sanders under the laws of Missouri in the year 1892) Martha Jane Sanders nee Barnes (married to Joseph Sanders under the laws of Missouri in the year 1888) Henry Reynolds (married to Amanda Minerva Sanders under the laws of Arkansas in the year 1892) Sallie Sanders nee Halstead (married to Jasper Weston Sanders under the laws of Arkansas in the year 1894) Nancy Caroline Nichols nee Gost married to James Bruton Nichols under the laws of Arkansas in the year 1872) Amanda Kateina Nichols nee Skelton (married to Orris Mayberry Nichols under the laws of Arkansas in the year 1878. Kenniolo Bowen nee Bowman (married to William Houston Bowen under the laws of Arkansas in the year of 1872) Mary Bowen nee Warner (married to George Washington Bowen under the laws of Arkansas in the year 1889) Louis Higgins (married to Rosa Isabel Bowen under the laws of Arkansas in the year of 1893) Al Ofelter (married to Amanda Jones Campbell under the laws of Arkansas in the year of 1899. Alex Martin (married to Mary Rebecca Cooper under the laws of Arkansas in the year 1898.

And it appearing to the Court from the Master's report and from the evidence in the case that each and all of the above named parties

are entitled to enrollment and to citizenship in the Cheetaw Nation except the inter-married parties hereunder named. It is therefore ordered decreed and adjudged that the Master's report be confirmed in all respects except as to the exceptions thereto which exceptions are sustained as to the non-residents and that the following named parties be and the same are hereby admitted to citizenship and to enrollment in the Cheetaw Nation as Cheetaw Indians by blood to-wit:

Rebecca Brown (nee Cooper), William Knightin Brown, Caswell ^{Mason} Brown,
 Pelly Ann Peek (nee Brown), George G. Brown, Nancy Alice Brown, Bettie ^{Brown} Brown,
 Sarah Brown, Becky Brown, Mary Brown, Mamie Brown, Alice Brown, George Brown,
 Susie Brown, Maudie Brown, Willie Brown, Florence Peek, Oscar Peek, Benjamin
 Grant Peek, Andrew Peek, Willie Emma Brown, ^{Archie} Minney Sanders, Jno. Newton
 Sanders, Jessie Wilson Sanders, Joseph Monroe Sanders, Elijah ^{McPadden} Sanders,
 Amanda Minerva Sanders, Jasper Estion Sanders, Mary Sanders,
 Monroe Sanders, William Newton Sanders, Thomas Wilson Sanders, Minnie Ra-
 chel Sanders, Nancy Ellen Sanders, James Sanders, John N. Sanders, Joseph
 M. Sanders, Izey May Sanders, William Swell Sanders, Minney Reynolds, Sanders,
 James Bruton Nichols, Orrin Mayberry Nichols, John William Biffler Nich-
 els, Della May Nichols, Nancy Vomer ^{Wilson} Nichols, James Willie Nichols, Maggie
 May Nichols, Myrtle Nichols, Louis Alta Nichols, Pelly Brown (nee Cooper),
 Jane Campbell (nee Cooper), William Houston Bowen, George Washington
 Bowen, Rosa Isabel Higgins (nee Bowen), Nancy Barthana Bowen, Elizabeth
 Jane Bowen, James Spencer Bowen, Jessie Andersen Bowen Jr., Eliza Jane Bow-
 en, Leona May Bowen, Rosa Evaline Bowen, Jessie Andersen Bowen, William
~~Quitman~~ Higgins, Nancy J. Long (nee Bowen now deceased), Maudie
 Long, William Long, George Long, Sidney Long, Pearly Long and -----Long,
 youngest child of T. T. Long James Salathel Campbell, Leona Isabel Camp-
 bell, Lucinda Louella Campbell, Walter Scott Campbell, Amanda Jane Ofelter
 (nee Campbell), Charlie J. Ofelter, John P. Ofelter, Amanda M. Ofelter,
 Mary Rebecca Martin (nee Cooper), Caldonie Martin, James Henry Martin,
 George Washington Martin, Rosa Glady Martin (Nancy Cooper) now deceased
 Samuel H. Cooper, William Houston Cooper, John Cooper Jr., Bern Ann Cooper

And it is further ordered decreed and adjudged that the following named parties be admitted to enrollment and to Citizenship in the Cheetaw Nation as inter-married citizens as follows to-wit:

William Bluforn Brown Andrew Jackson Peck Nancy Caroline Nichol Kossiah Bowen.

And the following intermarried parties be and the same are hereby rejected to-wit:

Nancy Jane Brown, Sarah Brown, Lissie Sanders, Martha Jane Sanders, Henry Reynolds, Nellie Sanders, Amanda Melvina Nichols, Mary Bowen, Louis Higgins, Al. Ofelter, and Alex Martin, because they have married since the year 1876 and not in accordance with the Indian law.

(signed)

Nessa Townsend Judge.

UNITED STATES OF AMERICA.)

Indian Territory.)

Southern District.)

I, C. M. Campbell, Clerk of the

United States Court, within and for the Southern District of the Indian Territory, do hereby certify that the above and foregoing is a true and perfect Order of Court, as the same appears of file and record in my office.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said Court, at my office in Ardmore, Indian Territory this 14th day of March, 1905.

Clerk.

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Matthias, [illegible]

25106

Choctaw 6028

James W. Nichols

Trans from Choc Card 5061 See Pet. C-34
Duplicate Record Bound 8-1306 granted

June 15, 1909 Dept holds That case is
not analogous To Goldsby case and
declines To Take action looking To
enrollment of applicant

6-29-09 Parties notified

6028

O.L.J.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of
William B. Brown, et al., as citizens of the Choctaw Nation, con-
solidating the applications of

William B. Brown, et al.	7-5096,
William N. Brown, et al.	7-5060,
Eli W. Brown, et al.	7-D-432,
Caswell M. Brown, et al.	7-5066
Andrew J. Peck, et al.	7-5062
George G. Brown, et al.	7-5095
James B. Nichols, et al.	7-5100,
John W. B. Nichols, et al.	7-5097
Orin M. Nichols, et al.	7-5061,
Osa Nichols, et al.	7-D-509.

DECISION.

It appears from the census card records in this case that on September 22, 1898, application was made to the Commission to the Five Civilized Tribes for the enrollment of William B. Brown (sixty-one years of age), as a citizen by intermarriage of the Choctaw Nation, and for the enrollment of his two children, Nancy A. Brown (twenty-three years of age) and Bettie Brown, now McCarty (nineteen years of age), as citizens by blood of the said nation; on September 22, 1898, for the enrollment of William N. Brown (thirty-nine years of age), and his seven minor children, Sarah Brown, now Johnston (eighteen years of age), Becky Brown (sixteen years of age), Mary Brown, now Johnston (thirteen years of age), Mamie (or Minnie)

Brown, now Hudson (eleven years of age), Alice Brown (eight years of age), George Brown (five years of age) and Susie Brown (one year of age), as citizens by blood of the Choctaw Nation, and for the enrollment of Nancy Brown (thirty-six years of age) as a citizen by intermarriage of said nation; on September 5, 1899, for the enrollment of Eli W. Brown (twenty-eight years of age) as a citizen by intermarriage of the Choctaw Nation; on September 22, 1898, for the enrollment of Caswell M. Brown (thirty-four years of age), and his two minor children, Maudie (ten years of age) and Willie Brown (six years of age), as citizens by blood of the Choctaw Nation, and on October 18, 1898, for the enrollment of his wife, Amanda Brown (thirty-one years of age), as a citizen by intermarriage of said nation; on September 22, 1898, for the enrollment of Andrew J. Peck (thirty-two years of age) as a citizen by intermarriage of the Choctaw Nation, and for the enrollment of his wife, Polly A. Peck (thirty years of age), and his five minor children, Florence (nine years of age), Oscar (seven years of age), Benjamin G. (five years of age), Andrew (three years of age), and Otis Dewey Peck (two months of age), as citizens by blood of said nation; on September 22, 1898, for the enrollment of George G. Brown (twenty-six years of age), and his minor daughter, Willie Emma Brown (three years of age), as citizens by blood of the Choctaw Nation, and for the enrollment of his wife, Sarah Brown (twenty-one years of age), as a citizen by intermarriage of said nation; on September 22, 1898, for the enrollment of James B. Nichols (forty-eight years of age), and his two minor children, Della May Nichols, now Scott (fourteen years of age), and Nancy V. Nichols (seven years of age), as citizens by blood of the Choctaw Nation, and for the enrollment of his wife, Nancy C. Nichols, (forty-two years of age), as a

citizens by intermarriage of said nation; on September 22, 1898 for the enrollment of John W. B. Nichols (twenty-four years of age) as a citizen by blood of the Choctaw Nation, and for the enrollment of his wife, Bessie Nichols (eighteen years of age), as a citizen by intermarriage of said nation; on September 22, 1898, for the enrollment of Orin M. Nichols (forty-four years of age), and his four minor children, James W. (eighteen years of age), Maggie M. (twelve years of age), Mettie Myrtle (eight years of age), and Lonie A. Nichols (four years of age), as citizens by blood of the Choctaw Nation, and for the enrollment of his wife, Amanda M. Nichols (thirty-eight years of age), as a citizen by intermarriage of said nation; and on September 25, 1899, for the enrollment of Osa Nichols (seventeen years of age) as a citizen by intermarriage of the Choctaw Nation.

Applications were subsequently made for the enrollment of the following minor applicants as citizens by blood of the Choctaw Nation: On January 20, 1902, for the enrollment of Mary Ethel McCarty (born December 8, 1901); on May 31, 1906, for the enrollment of William A. McCarty (born April 21, 1904) and Ollie McCarty (born February 14, 1906); on October 13, 1900, for the enrollment of William Erman Johnston (born June 30, 1900); on October 19, 1900, for the enrollment of Minnie Gertrude Brown (born August 13, 1900); on May 16, 1901, for the enrollment of Fannie C. Brown (born February 11, 1901); on April 29, 1905, for the enrollment of Oscar Lee Johnston (born November 14, 1902); on April 29, 1905, for the enrollment of Willie Clarence Brown (born April 8, 1903); on July 12, 1902, for the enrollment

Henry Niten Brown, (born May 21, 1902); on April 29, 1905, for the enrollment of Roy Lester Johnston (born October 28, 1903); on May 21, 1906, for the enrollment of Edna Arvel Johnston (born March 21, 1905); on April 14, 1905, for the enrollment of Rubie Dill Brown (born February 12, 1904); in 1899, for the enrollment of Elbert Knightington Brown (born October 8, 1899); on April 7, 1905, for the enrollment of Annie Jewell Brown (born December 2, 1902); on December 10, 1901, for the enrollment of Virgie Peck (born October 11, 1901); on April 8, 1905, for the enrollment of Prebble Peck (born February 19, 1904); on May 21, 1906, for the enrollment of Cassie Brown (born May 30, 1900) and Goldie Brown (born September 5, 1904); on April 17, 1905, for the enrollment of Nema May Scott (born May 15, 1903) and Lita Lois Scott (born February 1, 1906); on September 1, 1900, for the enrollment of Louie Herman Nichols (born August 19, 1900); on December 27, 1901, for the enrollment of Golda Ula Nichols (born September 15, 1901); on April 1, 1905, for the enrollment of Sylvie Jewel Nichols (born August 28, 1903); on April 14, 1905, for the enrollment of Cora Lee Nichols (born November 6, 1902); on April 6, 1901, for the enrollment of Daphne Myrtle Nichols (born February 20, 1901; and on May 21, 1906, for the enrollment of Teddy Golden Johnston (born June 15, 1905).

It appears from the records of the Commission to the Five Civilized Tribes that on September 9, 1896, in the case entitled "Nancy Cooper, et al. vs. Choctaw Nation" (1896 Choctaw Citizenship Docket, Case No. 1418), original application was made to said Commission, under the provisions of the Act of Congress approved June 10, 1896 (29 Stat., 321), for admission to

citizenship in the Choctaw Nation of the applicants, Nancy A. Brown (as Nancy Alice Brown), Bettie McCarty (as Rebecca Elizabeth Brown), William M. Brown (as William Hiten Brown), Sarah Johnston (as Sarah Elizabeth Brown), Becky Brown (as Rebecca Catherine Brown), Mary Brown (as Mary Arrillie Brown), Mamie (or Minnie) Hudson (as Minnie Ann Brown), Alice Brown, George Brown (as George Montgomery Brown), Caswell M. Brown, Maudie Brown (as Mandy E. Brown), Willie Brown (as William G. Brown), Polly A. Peck (as Polly Ann Peck), Florence Peck (as Minnie F. Peck), Oscar Peck (as Oscar S. Peck), Benjamin Peck (as Benjamin G. Peck), Andrew Peck, George G. Brown, Willia Emma Brown, James B. Nichols (as James Bruton Nichols), Della May Scott (as Mary Della May Nichols), Nancy V. (Nannie Vilma Nichols), John W. B. Nichols (as John William Bethuel Nichols), Orin M. Nichols (as Orrin Maybery Nichols) James W. Nichols (as James Willis Nichols), Maggie M. Nichols (as Maggie May Nichols), Mettie Myrtle Nichols, Lonie A. Nichols (as Lena Alta Nichols), as citizens by blood of said nation, and for the admission of William B. Brown, Nancy J. Brown (as Nancy Jane Brown), Amanda Brown, Andrew J. Peck (as A. J. Peck), Sarah Brown, Nancy C. Nichols (as Nancy Caroline Nichols), and Amanda M. Nichols (as Amanda Melvina Nichols), as citizens by intermarriage of said nation; and that on December 8, 1896, said Commission rendered its decision therein, denying the application of the above named applicants for enrollment as citizens of the Choctaw Nation.

From the decision of said Commission an appeal was taken to the United States Court for the Southern District of Indian Territory, which court on December 27, 1897, in the case

-6-

entitled "Nancy J. Cooper, et al. vs. Choctaw Nation" (Southern District Citizenship Case No. 96), admitted Nancy A. Brown (as Nancy Alice Brown), Bettie McCarty (as Bettie Brown), Sarah Johnson (as Sarah Brown), Becky Brown, Mary Brown, Mamie (or Minnie) Hudson (as Mamie Brown), Alice Brown, George Brown, Susie Brown, Caswell M. Brown (as Caswell Marion Brown), Mandie Brown, Willie Brown, Polly A. Peck (as Polly Ann Peck), Florence Peck, Oscar Peck, Benjamin Peck (as Benjamin Grant Peck), Andrew Peck, George G. Brown, Willie Emma Brown, James B. Nichols (as James Bruton Nichols), Della May Scott (as Dell May Nichols), Nancy W. Nichols (as Nancy Velmer Nichols), Orin M. Nichols (as Orin Mayberry Nichols), James W. Nichols (as James Willie Nichols), Maggie M. Nichols (as Maggie May Nichols), Mettie Myrtle Nichols (as Myrtle Nichols), and Lonie A. Nichols (as Lonie Alta Nichols), as citizens by blood of the Choctaw Nation, and William B. Brown (as William Bluford Brown), Andrew J. Peck (as Andrew Jackson Peck), and Nancy C. Nichols (as Nancy Caroline Nichols), as citizens by intermarriage of said nation, and denied the applications for the admission of Nancy J. Brown (as Nancy Jane Brown), Sarah Brown, and Amanda M. Nichols (as Amanda Melvina Nichols), as citizens by intermarriage of the Choctaw Nation. The name of the applicant, Susie Brown, was interpolated in the judgment of said court, she not having been an applicant before the Commission to the Five Civilized Tribes in 1896.

On March 18, 1898, said case again came before said court upon a motion of the plaintiff's attorneys to correct the judgment of said court rendered December 20, 1897, and the court, thereupon, ordered said judgment corrected so as to admit the

applicants, Nancy J. Brown (as Nancy Jane Brown), Sarah Brown, Amanda M. Nichols (as Amanda Melvina Nichols), as citizens by intermarriage of the Choctaw Nation.

On September 28, 1898, said court rendered a supplemental judgment admitting Amanda Brown as a citizen by intermarriage of the Choctaw Nation.

On January 17, 1900, this cause again came before said court upon a motion of the defendant to strike out of the judgment theretofore rendered, certain names improperly admitted to citizenship, and said court being fully advised, ordered that the following names, Susie Brown, Andrew J. Peck as (Andrew Jackson Peck), Bettie McCarty (as Bettie Brown), and Becky Brown, be stricken from said former judgment.

Subsequently, upon the representation of the plaintiffs' attorneys that certain persons who were original applicants were by oversight or mistake left out of the original judgment theretofore rendered, the court ordered that the applicants, Nancy J. Brown (as Nancy Jane Brown,), Sarah Brown, Amanda Brown, Amanda M. Nichols and Rebecca E. Brown be admitted to citizenship in the Choctaw Nation.

It further appears from the records of said Commission that on December 17, 1902, the Choctaw and Chickasaw Citizenship Court, created under the provisions of the Act of Congress approved July 1, 1902 (32 Stats., 641), "set aside, annulled, vacated and held for naught" the aforesaid judgment of the United States Court for the Southern District of Indian Territory.

Thereafter, the record in the above case was certified to the Choctaw and Chickasaw Citizenship Court, for a trial de novo, which court, on November 29, 1904, in the case entitled, "William

Heighton Brown, et al. vs. Choctaw and Chickasaw Nations" (Choctaw Chickasaw Citizenship Court Case No. 73, Tishomingo Docket), "ordered, adjudged and decreed that the petition of the plaintiffs, William Heighton Brown (or William Knighton Brown), Caswell Marion Brown, Polly Ann Peck (nee Brown), George R. Brown (or George G. Brown), Money Ellis Brown (or Money Alice Brown), Sarah Brown, Mary Brown, Monie Brown (or Mamie Brown), Alice Brown, George Brown, Mondie Brown (or Maudie Brown), Willie Brown, Florence Peck, Oscar Peck, Benjamin Grant Peck, Andrew Peck, William Emma Brown (or Willie Emma Brown), James Burton Nichols, (or James Bruton Nichols), Oney Mayberry Nichols (or Orin Mayberry Nichols), John William Baffle Nichols, Della May Nichols, Nancy Velmor Nichols, James Willis Nichols, Maggie May Nichols, Myrtle Nichols, Lonie Alta Nichols, William Buford Brown, Nancy Caroline Nichols, Rebecca E. Brown (or Becky Brown), Rebecca C. Brown (or Rebecca Brown), Amanda Melvina Nichols, Amanda Brown, Nancy J. Brown (or Nancy Jane Brown), Sarah Brown, be denied, and that they be declared not citizens of the Choctaw Nation, and not entitled to enrollment as such citizens, and not entitled to any rights whatever flowing therefrom."

On December 12, 1904, orders were entered of record by the Commission to the Five Civilized Tribes dismissing the applications for the enrollment of Mary E. McCarty, William Herman Johnston, Minnie Gertrude Brown, Henry Witen Brown, Elbert Knightington Brown, Otis Dewey Peck, Virgie Peck, Louie Herman Nichols and Golda Ula Nichols as citizens by blood of the Choctaw Nation, and on March 18, 1905, an order was entered of record dismissing the application for the enrollment of Fannie C. Brown as a citizen by

blood of said nation. All of said applicants were dismissed for the reason that their parents through whom they claim their rights to enrollment as citizens by blood of the Choctaw Nation, had been denied by a decree of the Choctaw and Chickasaw Citizenship Court.

On December 12, 1904, orders were entered of record by the Commission to the Five Civilized Tribes dismissing the applications for the enrollment of Eli W. Brown, Bessie Nichols and Osa Nichols as citizens by intermarriage of the Choctaw Nation, for the reason that the persons through whom they claim their rights had also been denied by a decree of the Choctaw and Chickasaw Citizenship Court.

On March 30, 1906, the Commission to the Five Civilized Tribes denied the application for the enrollment of Susie Brown as a citizen by blood of the Choctaw Nation, and on April 6, 1906 (I.T.D. 3810-1906), the Department set aside said decision of the Commission and returned the record to this office for a full investigation upon its merits.

Under the regulations adopted by the Commissioner to the Five Civilized Tribes of January 2, 1906, there was filed on February 6, 1906, by Cruce, Cruce and Bleakmore, of Ardmore, Indian Territory, attorneys for the petitioners, petitions praying that William B. Brown, Nancy A. Brown, Minnie Hudson, Sarah Johnston, Oscar Lee Johnston, William Erman Johnston, Rebecca Brown, Minnie Gertrude Brown, Henry Hiten Brown, Rubie Dill Brown, Eli W. Brown, Mary A. Johnston, Roy Lester Johnston, Edna A. Johnston, Rebecca McCarty, William A. McCarty, Mary E. McCarty, William E. Brown, Nancy Jane Brown, George Brown, Alice Brown, Susie Brown, Cletus Brown, Clarence Brown, A. J. Peck, Polly Ann Peck, Minnie Peck, Oscar Sherman Peck, Benjamin Grant Peck, Andrew Peck, O. D. Peck,

Virgie Peck, Prebbie Peck, C. M. Brown, Amanday Brown, Maudy Brown, William Brown, Elbert K. Brown, Annie Jewel Brown, George G. Brown, Sarah Brown, Willie Emma Brown, Cassie Brown, Goldie Brown, J. B. Nichols, Nancy Nichols, Belma Nichols, John W. B. Nichols, Bessie Deaton Nichols, Louie Herman Nichols, Golda Eula Nichols, Silva Jewel Nichols, Della May Scott, Nema Scott, Orin M. Nichols, Amanda Nichols, Myrtle Nichols, Lonie Nichols, James W. Nichols, Osa Nichols, Cora Lee Nichols and Maggie Angel be enrolled as citizens of the Choctaw Nation.

All of the above petitioners, with the exception of Ollie McCarty, Lita Lois Scott, Daphne Myrtle Nichols and Teddy Golden Johnston, are identical with the applicants for whom application has been made for enrollment as citizens of the Choctaw Nation.

On April 16, 1906, the principal petitioners, their attorneys, Cruce, Cruce & Bleakmore, of Ardmore, Indian Territory, and Messrs. Mansfield, McMurray & Cornish, attorneys for the Choctaw and Chickasaw Nations, of South McAlester, Indian Territory, were advised that the Commissioner to the Five Civilized Tribes would at his office at Muskogee, Indian Territory, on Monday, May 14, 1906, at nine o'clock A.M., hear such testimony and receive such other evidence as might be submitted by the petitioners in support of their applications for enrollment as citizens of the Choctaw Nation, and by the attorneys for the Choctaw and Chickasaw Nations.

On April 16, 1906, William E. Brown, father of Susie Brown, Cruce, Cruce & Bleakmore, attorneys for said Susie Brown, and Mansfield, McMurray & Cornish, attorneys for the Choctaw and Chickasaw Nations, were advised that on April 6, 1906, the Department set aside the decision rendered by the Commission on March 30, 1905, and returned the record in said case with in-

structions that a full investigation be made of the rights of said Susie Brown to enrollment as a citizen by blood of the Choctaw Nation, that the testimony of creditable witnesses be required showing her Choctaw blood, if any, the time and place of her birth, her various residences, her ancestors, the privileges, if any, enjoyed by her and her parents as citizens of the Choctaw Nation, and notified that the Commissioner to the Five Civilized Tribes would at his office at Muskogee, Indian Territory, on Monday, May 14, 1906, at nine o'clock A.M., hear such testimony and receive such other evidence as might be submitted in support of said application, investigation to be conducted along the lines indicated by Department letter above referred to.

On motion of Attorney for applicants, the hearing in the matter of the above application was continued on April 26, 1906, to May 21, 1906.

On May 21, 1906, proceedings were had in the matter of said applications in pursuance to the notices above mentioned.

It appears from the record herein that the applicants, William N. Brown, Caswell M. Brown, Polly Ann Peck, George G. Brown, Nancy A. Brown and Bettie McCarty, are the children of the principal applicant, William B. Brown, and Rebecca Cooper (now deceased), who is alleged to have been a Choctaw Indian, and the daughter of William Cooper, who was the son of Johnny Cooper, an alleged Choctaw Indian, who resided near the line between the states of Tennessee and Mississippi; that Sarah Johnston, Becky Brown, Mary Johnston, Mamie (or Minnie) Rudson, Alice Brown, George Brown, Susie Brown, Fannie C. Brown and Willie Clarence Brown, are the children of the applicants

William N. Brown and Nancy J. Brown, (the latter an applicant for intermarried rights); that William Erman, Oscar Lee and Teddy Golden Johnston are the children of the applicant, Sarah Johnston, and J. A. Johnston, a non-citizen; that Minnie Gertrude, Henry Niten and Rubie Dill Brown are the children of the applicants, Becky Brown and Eli W. Brown, (the latter an applicant for intermarried rights); that Roy Lester and Edna Arvel Johnston are the children of the applicant, Mary Johnston, and Jace J. Johnston, a non-citizen; that Maudie, Willie, Elbert Knightington, and Annie Jewell Brown are the children of the applicant, Caswell M. Brown and Amanda Brown (the latter an applicant for intermarried rights); that Florence, Oscar, Benjamin, Andrew, Otis Dewey Virgie and Prebble peck are the children of the applicant, Polly Ann Peck and Andrew J. Peck (the latter an applicant for intermarried rights); that Willie Emma, Cassie and Goldie Brown are the children of the applicants, George G. Brown and Sarah Brown (the latter an applicant for intermarried rights); that Mary Ethel, William A. and Ollie McCarty are the children of the applicant, Bettie McCarty, and Oliver McCarty, a non-citizen; that James B. Nichols and Orin M. Nichols are the children of Wilson Nichols (now deceased), a non-citizen, and Delitha Cooper (now deceased), who is alleged to have been a Choctaw Indian and the daughter of John Cooper, above referred to; that John W. B. Nichols, Della May Scott and Nancy V. Nichols are the children of the applicant, James B. Nichols and Nancy C. Nichols (the latter an applicant for intermarried rights); that Louie Herman, Golda Ula and Sylvie Jewel Nichols are the children of the applicant, John W. B. Nichols and Bessie Nichols (the latter an applicant for

intermarried rights); that Nema May and Lita Lois Scott are the children of the applicant, Della May Scott, and Burris Scott, a non-citizen; that James W., Maggie M., Nettie Myrtle and Lonie A. Nichols are the children of the applicant, Orin M. Nichols and Amanda M. Nichols (the latter an applicant for intermarried rights); and that the applicants, Cora Lee and Daphne Myrtle Nichols, are the children of the applicants, James W. Nichols and Osa Nichols (the latter an applicant for intermarried rights).

The applicant, William B. Brown, claims his right to citizenship in the Choctaw Nation by the virtue of his marriage on February 10, 1858, under the laws of the state of Arkansas, to Becky Cooper (now deceased); that Nancy Brown claims her right to enrollment as a citizen by intermarriage by virtue of her marriage to the applicant, William N. Brown, on September 21, 1879; that Eli W. Brown claims his right to enrollment as a citizen by intermarriage by virtue of his marriage on August 21, 1899, under the laws, customs and usages of the Chickasaw Nation to the applicant, Becky Brown, both of said applicants being at said time residents in good faith of the Chickasaw Nation; that Amanda Brown claims her right to enrollment as a citizen by intermarriage by virtue of her marriage on December 2, 1886, to the applicant, Caswell M. Brown; that Andrew J. Peck claims his right to enrollment as a citizen by intermarriage by virtue of his marriage on December 15, 1887, under the laws of the state of Arkansas to the applicant, Polly A. Peck; that Sarah Brown claims her right to enrollment as a citizen by intermarriage by virtue of her marriage to George G. Brown on June 9, 1895; that the applicant, Nancy C. Nichols claims her right to enrollment as a citizen by intermarriage by virtue of her marriage to the applicant, James B.

Nichols, on March 9, 1873; that the applicant, Bessie Nichols, claims her right to enrollment as a citizen by intermarriage by virtue of her marriage on September 11, 1898, to the applicant, John W. B. Nichols; that Amanda M. Nichols claims her right to enrollment as a citizen by intermarriage by virtue of her marriage on October 29, 1878, to the applicant, Orin M. Nichols; and that Osa Nichols claims her right to enrollment as a citizen by intermarriage by virtue of her marriage on April 27, 1899, to the applicant, James W. Nichols.

It does not appear from the record herein or from the records in the possession of this office that the applicant, Andrew J. Peck, has ever been admitted to Choctaw citizenship by a duly constituted court or committee of the Choctaw Nation, nor has said applicant ever been married to Polly Ann Peck, through whom he claims his intermarried rights, by virtue of a license issued by the tribal authorities of either the Choctaw or Chickasaw Nation.

At the hearing before the Commissioner to the Five Civilized Tribes on May 21, 1906, William N. Brown, Caswell M. Brown, James B. Nichols and Orin M. Nichols testified that in 1894, they, together with the other applicants herein who were living at said time, petitioned the Choctaw Council for admission as citizens of the Choctaw Nation; that no action having been taken thereon, they, in 1896, appeared before the Choctaw Census Commission and made application to be enrolled upon the 1896 Choctaw Census Roll; and that some time in January, 1897, they received a certificate from the Secretary of the Choctaw Revisory Board, wherein it appeared that they had been enrolled upon the 1896 Choctaw Census Roll. Said applicants further testified

that prior to 1896 they had been permitted to issue permits for their tenants, held lands, and were not subject to any tribal tax which was due from all non-citizens who were engaged in the mercantile business.

On June 4, 1906, John H. Gamblin testified that he was acquainted with the applicants herein, and that in October 1894, he having business before the Choctaw Council, presented on behalf of the applicants herein who were living at that time, a petition praying that they be admitted as citizens of the Choctaw Nation, and that he does not know what action, if any, was ever taken thereon.

Upon an examination of the tribal rolls of the Choctaw Nation in the possession of this office, it appears that the applicants, William B. Brown, William N. Brown, Nancy J. Brown, Caswell M. Brown, Amanda Brown, Polly Ann Peck, Andrew J. Peck, George G. Brown, Sarah Brown, Nancy A. Brown, Bettie McCarty, Sarah Johnston, Becky Brown, Mary Johnston, Mamie (or Minnie) Hudson, Alice Brown, George Brown, Susie Brown, Maudie Brown, Willie Brown, Florence Peck, Oscar Peck, Benjamin Peck, Andrew Peck, James B. Nichols, Nancy C. Nichols, Orin M. Nichols, Amanda M. Nichols, John W. B. Nichols, Della May Scott, Nancy V. Nichols, James W. Nichols, Maggie M. Nichols, Mettie Myrtle Nichols and Lonie A. Nichols, are identified upon the 1896 Choctaw Census Roll opposite Numbers 1688, 1691, 1692, 1701, 1702, 10518, 10517, 1705, 1706, 1689, 1690, 1693, 1694, 1695, 1696, 1697, 1698, 1699, 1703, 1704, 10519, 10520, 10521, 10522, 9803, 9808, 9812, 9813, 9809, 9810, 9811, 9814, 9815, 9816, and 9817, respectively.

It further appears from the record herein that all of

the applicants, that were living on June 28, 1898, were residents in good faith of the Indian Territory on said date.

The evidence in this case further shows that the applicant, Daphne Myrtle Nichols, died on June 27, 1901.

I am of the opinion that in accordance with the opinions of the Assistant Attorney General for the Department of the Interior of February 10, 1905 (I.T.D. 10363-1904), and December 8, 1905 (I.T.D. 3693-1905), in the case of Lula West, the action of the Commission to the Five Civilized Tribes, and the subsequent action of the United States Court for the Southern District of Indian Territory, and the Choctaw and Chickasaw Citizenship Court, upon the right of the applicants who applied to the Commission to the Five Civilized Tribes in 1896, with the exception of Andrew J. Peck, was without authority of law, and of no force and effect upon the status of said applicants as citizens of the Choctaw Nation.

I am further of the opinion that the orders of the Commission to the Five Civilized Tribes of December 12, 1904 and March 18, 1905, dismissing the applications for the enrollment of Mary E. McCarty, William Erman Johnston, Minnie Gertrude Brown, Fannie C. Brown, Henry Niten Brown, Elbert Knightington Brown, Otis Dewey Peck, Virgie Peck, Louis Herman Nichols and Golda Ula Nichols as citizens by blood of the Choctaw Nation, and Eli W. Brown, Bessie Nichols and Osa Nichols as citizens by intermarriage of the Choctaw Nation, should be rescinded.

I am further of the opinion that in accordance with the opinions of the Assistant Attorney General for the Department of the Interior of March 3, 1905 (I.T.D. 187-1905) and March 10,

1906 (I.T.D. 9969-1905), Nancy A. Brown, Bettie McCarty, Mary Ethel McCarty, William N. Brown, Sarah Johnston, Becky Brown, Mary Johnston, Mamie (or Minnie) Hudson, Alice Brown, George Brown, Susie Brown, William Erman Johnston, Minnie Gertrude Brown, Henry Niten Brown, Fannie C. Brown, Caswell M. Brown, Maudie Brown, Willie Brown, Elbert Knightington Brown, Polly A. Peck, Florence Peck, Oscar Peck, Benjamin Peck, Andrew Peck, Otis Dewey Peck, Virgie Peck, George G. Brown, Willie Emma Brown, James B. Nichols, Della May Scott, Nancy V. Nichols, John W. B. Nichols, Louie Herman Nichols, Golda Ula Nichols, Orin M. Nichols, James W. Nichols, Maggie M. Nichols, Mettie Myrtle Nichols and Lonie A. Nichols should be enrolled as citizens by blood of the Choctaw Nation, under the provisions of the Acts of Congress approved June 28, 1898 (30 Stats., 495), and July 1, 1902 (32 Stats., 641), and it is so ordered.

I am further of the opinion that William B. Brown, Nancy Brown, Eli W. Brown, Amanda Brown, Sarah Brown, Nancy C. Nichols, Bessie Nichols, Amanda M. Nichols and Osa Nichols should be enrolled as citizens by intermarriage of the Choctaw Nation, under the provisions of the Acts of Congress approved June 28, 1898 (30 Stats., 495) and July 1, 1902 (32 Stats., 641), and it is so ordered.

I am further of the opinion that the application made for the enrollment of Andrew J. Peck as a citizen by intermarriage of the Choctaw Nation should be denied, under the provisions of the Act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered.

I am further of the opinion that William A. McCarty, Ollie McCarty, Oscar Lee Johnston, Willie Clarence Brown, Roy

Lester Johnston, Edna Arvel Johnston, Teddy Golden Johnston, Rubie Dill Brown, Annie Jewell Brown, Prebble Peck, Cassie Brown, Goldie Brown, Nema May Scott, Lita Lois Scott, Sylvie Jewel Nichols and Cora Lee Nichols should be enrolled as citizens by blood of the Choctaw Nation, under the provisions of the Act of Congress approved April 26, 1906 (Public No. 129), and it is so ordered.

I am further of the opinion that the application made for the enrollment of Daphne Myrtle Nichols as a citizen by blood of the Choctaw Nation should be dismissed, and it is so ordered.

Tams Birby,
COMMISSIONER.

Muskogee, Indian Territory,
Aug. 13, 1906.

7-D-509

7-5061

Muskogee, Indian Territory, August 13, 1906.

James W. Nichols,
Comanche, Indian Territory.

Dear Sir:

Inclosed herewith you will find a copy of the decision of the Commissioner to the Five Civilized Tribes, rendered August 13, 1906, granting the application for the enrollment of yourself, your child, Cora Lee Nichols, as citizens by blood and of your wife, Osa Nichols, as a citizen by intermarriage, of the Choctaw Nation, and dismissing the application for the enrollment of Daphne Myrtle Nichols as a citizen by blood of said Nation.

The decision, with the record of proceedings in the case, is this day transmitted to the Secretary of the Interior for review. The final decision of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

SIGNED

Commissioner.

Registered.

RAM 11/13

Muskogee, Indian Territory, August 13, 1906.

Cruce, Cruce & Bleakwore,
Attorneys at Law,
Ardmore, Indian Territory,

Gentlemen:

Inclosed herewith you will find a copy of the decision of the Commissioner to the Five Civilized Tribes, rendered August 13, 1906, granting the applications for the enrollment of Nancy A. Brown, Etta McCarty, Mary Ethel McCarty, William N. Brown, Sarah Johnston, Becky Brown, Mary Johnston, Mamie (or Minnie) Hudson, Alice Brown, George Brown, Essie Brown, William Erman Johnston, Minnie Gertrude Brown, Henry Hiten Brown, Fannie C. Brown, Caswell M. Brown, Maudie Brown, Willie Brown, Elbert Knightington Brown, Polly A. Peck, Florence Peck, Oscar Peck, Benjamin Peck, Andrew Peck, Otis Dewey Peck, Virgie Peck, George G. Peck, Willie Emma Brown, James E. Nichols, Della May Scott, Nancy V. Nichols, John W. B. Nichols, Louis Herman Nichols, Golda Ula Nichols, Orin M. Nichols, James W. Nichols, Maggie M. Nichols, Nettie Myrtle Nichols, Lonie A. Nichols, William A. McCarty, Ollie McCarty, Oscar Lee Johnston, Willie Clarence Brown, Ray Lester Johnston, Rana Arvel Johnston, Teddy Golden Johnston, Rubie Hill Brown, Annie Jewell Brown, Prebble Peck,

C. C. & B. 42

Cassie Brown, Goldie Brown, Mama May Scott, Lita Lois Scott, Sylvie Jewel Nichols and Gera Lee Nichols, as citizens by blood, and for the enrollment of William B. Brown, Nancy Brown, Eli W. Brown, Amanda Brown, Sarah Brown, Nancy C. Nichols, Bessie Nichols, Amanda M. Nichols and Osa Nichols, as citizens by intermarriage, of the Choctaw Nation; denying the application for the enrollment of Andrew J. Peck as a citizen by intermarriage of the Choctaw Nation, and dismissing the application for the enrollment of Daphne Myrtle Nichols as a citizen by blood of said nation.

The decision, with the record of proceedings in the case, is this day transmitted to the Secretary of the Interior for review. The final decision of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

SIGNED

Registered.

Commissioner.

Incl. WAM 10/11

Muskogee, Indian Territory, August 13, 1906.

Mansfield, McMurray & Cornish,

Attorneys for Choctaw and Chickasaw Nations,

South McAlester, Indian Territory,

Gentlemen:

Inclosed herewith you will find a copy of the decision of the Commissioner to the Five Civilized Tribes, rendered August 13, 1906, granting the application for the enrollment of Nancy A. Brown, Bettie McCarty, Mary Ethel McCarty, William N. Brown, Sarah Johnston, Becky Brown, Mary Johnston, Mamie (or Minnie) Hudson, Alice Brown, George Brown, Susie Brown, William Erman Johnston, Minnie Gertrude Brown, Henry Niten Brown, Fannie C. Brown, Caswell M. Brown, Maudie Brown, Willie Brown, Elbert Knightington Brown, Polly A. Peck, Florence Peck, Oscar Peck, Benjamin Peck, Andrew Peck, Otis Dewey Peck, Virgie Peck, George G. Brown, Willie Emma Brown, James B. Nichols, Della May Scott, Nancy V. Nichols, John W. B. Nichols, Louie Herman Nichols, Golda Ula Nichols, Orin M. Nichols, James W. Nichols, Maggie M. Nichols, Mattie Myrtle Nichols, Lenie A. Nichols, William A. McCarty, Ollie McCarty, Oscar Lee Johnston, Willie Clarence Brown, Ray Lester Johnston, Edna Arvel Johnston, Teddy Golden Johnston, Rubie Dill Brown, Annie Jewell Brown, Prebble Peck,

Cassie Brown, Goldie Brown, Hema May Scott, Lita Lois Scott, Sylvie Jewel Nichols and Cora Lee Nichols, as citizens by blood, and for the enrollment of William B. Brown, Nancy Brown, Eli W. Brown, Amanda Brown, Sarah Brown, Nancy C. Nichols, Bessie Nichols, Amanda M. Nichols and Osa Nichols, as citizens by intermarriage, of the Choctaw Nation; denying the application for the enrollment of Andrew J. Peck, as a citizen by intermarriage, and dismissing the application for the enrollment of Daphne Myrtle Nichols as a citizen by blood of the Choctaw Nation.

The decision, with the record of proceedings in the case, is this day transmitted to the Secretary of the Interior for review. The final decision of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

Registered.

Commissioner.

Incl. HAN 17/11

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1775
1775

Choctaw 6029

W. B. Nichols

Trans. from Choct. card 5097, Sec. P. 1. C. 34
and Nichols report

Duplicate record bound, 8-13-06 granted

March 1, 1907 Decision of Commissioner
reversed by Dept and schedules containing
names of applicants disapproved

6-15-09 Dept holds case is not analogous to
Goldsby case and declines to take action
looking to enrollment of applicant

6-29-09 Parties notified

6029

O.L.J.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of
William B. Brown, et al., as citizens of the Choctaw Nation, con-
solidating the applications of

William B. Brown, et al.	7-5096,
William B. Brown, et al.	7-5040,
Eli W. Brown, et al.	7-D-432,
Caswell M. Brown, et al.	7-5066
Andrew J. Peck, et al.	7-5062
George G. Brown, et al.	7-5095
James B. Nichols, et al.	7-5100,
John W. B. Nichols, et al.	7-5097
Orin M. Nichols, et al.	7-5061,
Osa Nichols, et al.	7-D-509,

DECISION.

It appears from the census card records in this case that on September 22, 1898, application was made to the Commission to the Five Civilized Tribes for the enrollment of William B. Brown (sixty-one years of age), as a citizen by intermarriage of the Choctaw Nation, and for the enrollment of his two children, Nancy A. Brown (twenty-three years of age) and Nettie Brown, now McCarty (nineteen years of age), as citizens by blood of the said nation; on September 22, 1898, for the enrollment of William B. Brown (thirty-nine years of age), and his seven minor children, Sarah Brown, now Johnston (eighteen years of age), Becky Brown (sixteen years of age), Mary Brown, now Johnston (thirteen years of age), Mamie (or Minnie)

Brown, now Hudson (eleven years of age), Alice Brown (eight years of age), George Brown (five years of age) and Essie Brown (one year of age), as citizens by blood of the Choctaw Nation, and for the enrollment of Nancy Brown (thirty-six years of age) as a citizen by intermarriage of said nation; on September 5, 1898, for the enrollment of Eli W. Brown (twenty-eight years of age) as a citizen by intermarriage of the Choctaw Nation, on September 22, 1898, for the enrollment of Caswell M. Brown (thirty-four years of age), and his two minor children, Maudie (ten years of age) and Willie Brown (six years of age), as citizens by blood of the Choctaw Nation, and on October 18, 1898, for the enrollment of his wife, Anania Brown (thirty-one years of age), as a citizen by intermarriage of said nation; on September 22, 1898, for the enrollment of Andrew J. Peck (thirty-two years of age) as a citizen by intermarriage of the Choctaw Nation, and for the enrollment of his wife, Felly A. Peck (thirty years of age), and his five minor children, Florence (nine years of age), Oscar (seven years of age), Benjamin O. (five years of age), Andrew (three years of age), and Otis Dewey Peck (two months of age), as citizens by blood of said nation; on September 22, 1898, for the enrollment of George G. Brown (twenty-six years of age), and his minor daughter, Willie Emma Brown (three years of age), as citizens by blood of the Choctaw Nation, and for the enrollment of his wife, Sarah Brown (twenty-one years of age), as a citizen by intermarriage of said nation; on September 22, 1898, for the enrollment of James B. Nichols (forty-eight years of age), and his two minor children, Della May Nichols, now Scott (fourteen years of age), and Nancy V. Nichols (seven years of age), as citizens by blood of the Choctaw Nation, and for the enrollment of his wife, Nancy C. Nichols, (forty-two years of age), as a

citizens by intermarriage of said nation; on September 22, 1898 for the enrollment of John W. B. Nichols (twenty-four years of age) as a citizen by blood of the Choctaw Nation, and for the enrollment of his wife, Bessie Nichols (eighteen years of age), as a citizen by intermarriage of said nation; on September 22, 1898, for the enrollment of Orin M. Nichols (forty-four years of age), and his four minor children, James W. (eighteen years of age), Maggie M. (twelve years of age), Mettie Myrtle (eight years of age), and Lonie A. Nichols (four years of age), as citizens by blood of the Choctaw Nation, and for the enrollment of his wife, Amanda M. Nichols (thirty-eight years of age), as a citizen by intermarriage of said nation; and on September 25, 1899, for the enrollment of Osa Nichols (seventeen years of age) as a citizen by intermarriage of the Choctaw Nation.

Applications were subsequently made for the enrollment of the following minor applicants as citizens by blood of the Choctaw Nation: On January 20, 1902, for the enrollment of Mary Ethel McCarty (born December 8, 1901); on May 31, 1904, for the enrollment of William A. McCarty (born April 21, 1904) and Ollie McCarty (born February 14, 1906); on October 13, 1900, for the enrollment of William Erman Johnston (born June 30, 1900); on October 19, 1900, for the enrollment of Minnie Gertrude Brown (born August 13, 1900); on May 16, 1901, for the enrollment of Fannie C. Brown (born February 11, 1901); on April 29, 1905, for the enrollment of Oscar Lee Johnston (born November 14, 1902); on April 29, 1905, for the enrollment of Willie Clarence Brown (born April 8, 1903); on July 12, 1902, for the enrollment

Henry Hiten Brown, (born May 21, 1902); on April 29, 1905, for the enrollment of Roy Lester Johnston (born October 28, 1903); on May 21, 1906, for the enrollment of Edna Arvel Johnston (born March 21, 1906); on April 14, 1905, for the enrollment of Rubie Dill Brown (born February 12, 1904); in 1899, for the enrollment of Elbert Knightington Brown (born October 8, 1899); on April 7, 1905, for the enrollment of Annie Jewell Brown (born December 2, 1902); on December 10, 1901, for the enrollment of Virgie Peck (born October 11, 1901); on April 8, 1906, for the enrollment of Prebble Peck (born February 19, 1904); on May 21, 1906, for the enrollment of Cassie Brown (born May 30, 1900) and Goldie Brown (born September 5, 1904); on April 17, 1905, for the enrollment of Hema May Scott (born May 15, 1903) and Lita Lois Scott (born February 1, 1906); on September 1, 1900, for the enrollment of Louis Herman Nichols (born August 19, 1900); on December 27, 1901, for the enrollment of Gelda Ula Nichols (born September 15, 1901); on April 1, 1905, for the enrollment of Sylvie Jewel Nichols (born August 26, 1903); on April 14, 1905, for the enrollment of Cora Lee Nichols (born November 6, 1902); on April 6, 1901, for the enrollment of Daphne Myrtle Nichols (born February 20, 1901); and on May 21, 1906, for the enrollment of Teddy Golden Johnston (born June 15, 1906).

It appears from the records of the Commission to the Five Civilized Tribes that on September 9, 1896, in the case entitled "Nancy Cooper, et al. vs. Choctaw Nation" (1896 Choctaw Citizenship Docket, Case No. 1418), original application was made to said Commission, under the provisions of the Act of Congress approved June 10, 1896 (29 Stats., 121), for admission to

citizenship in the Chectaw Nation of the applicants, Nancy A. Brown (as Nancy Alice Brown), Bettie McCarty (as Rebecca Elizabeth Brown), William W. Brown (as William Witen Brown), Sarah Johnston (as Sarah Elizabeth Brown), Becky Brown (as Rebecca Catherine Brown), Mary Brown (as Mary Arrillie Brown), Mamie (or Minnie) Hudson (as Minnie Ann Brown), Alice Brown, George Brown (as George Montgomery Brown), Caswell M. Brown, Maudie Brown (as Mandy E. Brown), Willie Brown (as William G. Brown), Polly A. Peck (as Polly Ann Peck), Florence Peck (as Minnie F. Peck), Oscar Peck (as Oscar S. Peck), Benjamin Peck (as Benjamin G. Peck), Andrew Peck, George G. Brown, Willia Emma Brown, James B. Nichols (as James Bruton Nichols), Della May Scott (as Mary Della May Nichols), Nancy V. (Mamie Vilma Nichols), John W. B. Nichols (as John William Bethuel Nichols), Orin M. Nichols (as Orrin Maybery Nichols) James W. Nichols (as James Willis Nichols), Maggie M. Nichols (as Maggie May Nichols), Nettie Myrtle Nichols, Louie A. Nichols (as Lena Alta Nichols), as citizens by blood of said nation, and for the admission of William B. Brown, Nancy J. Brown (as Nancy Jane Brown), Amanda Brown, Andrew J. Peck (as A. J. Peck), Sarah Brown, Nancy C. Nichols (as Nancy Caroline Nichols), and Amanda M. Nichols (as Amanda Melvina Nichols), as citizens by intermarriage of said nation; and that on December 8, 1896, said Commission rendered its decision therein, denying the application of the above named applicants for enrollment as citizens of the Chectaw Nation.

From the decision of said Commission an appeal was taken to the United States Court for the Southern District of Indian Territory, which court on December 27, 1897, in the case

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entitled "Nancy J. Cooper, et al, vs. Choctaw Nation" (Southern District Citizenship Case No. 16), admitted Nancy A. Brown (as Nancy Alice Brown), Nettie McCarty (as Nettie Brown), Sarah Johnson (as Sarah Brown), Becky Brown, Mary Brown, Mamie (or Minnie) Hudson (as Mamie Brown), Alice Brown, George Brown, Essie Brown, Caswell M. Brown (as Caswell Marion Brown), Maudie Brown, Willie Brown, Polly A. Peck (as Polly Ann Peck), Florence Peck, Oscar Peck, Benjamin Peck (as Benjamin Grant Peck), Andrew Peck, George G. Brown, Willie Emma Brown, James E. Nichols (as James Bruton Nichols), Della May Scott (as Dell May Nichols), Nancy V. Nichols (as Nancy Velmer Nichols), Orin M. Nichols (as Orin Mayberry Nichols), James W. Nichols (as James Willis Nichols), Maggie M. Nichols (as Maggie May Nichols), Nettie Myrtle Nichols (as Myrtle Nichols), and Louis A. Nichols (as Louis Alta Nichols), as citizens by blood of the Choctaw Nation, and William B. Brown (as William Bluford Brown), Andrew J. Peck (as Andrew Jackson Peck), and Nancy C. Nichols (as Nancy Caroline Nichols), as citizens by intermarriage of said nation, and denied the applications for the admission of Nancy J. Brown (as Nancy Jane Brown), Sarah Brown, and Amanda M. Nichols (as Amanda Melvina Nichols), as citizens by intermarriage of the Choctaw Nation. The name of the applicant, Essie Brown, was interpolated in the judgment of said court, she not having been an applicant before the Commission to the Five Civilized Tribes in 1896.

On March 18, 1898, said case again came before said court upon a motion of the plaintiff's attorneys to correct the judgment of said court rendered December 28, 1897, and the court, thereupon, ordered said judgment corrected so as to admit the

applicants, Nancy J. Brown (as Nancy Jane Brown), Sarah Brown, Amanda M. Nichols (as Amanda Melvina Nichols), as citizens by intermarriage of the Choctaw Nation.

On September 28, 1898, said court rendered a supplemental judgment admitting Amanda Brown as a citizen by intermarriage of the Choctaw Nation.

On January 17, 1900, this cause again came before said court upon a motion of the defendant to strike out of the judgment theretofore rendered, certain names improperly admitted to citizenship, and said court being fully advised, ordered that the following names, Susie Brown, Andrew J. Peck as (Andrew Jackson Peck), Bettie McCarty (as Bettie Brown), and Becky Brown, be stricken from said former judgment.

Subsequently, upon the representation of the plaintiffs' attorneys that certain persons who were original applicants were by oversight or mistake left out of the original judgment theretofore rendered, the court ordered that the applicants, Nancy J. Brown (as Nancy Jane Brown), Sarah Brown, Amanda Brown, Amanda M. Nichols and Rebecca E. Brown be admitted to citizenship in the Choctaw Nation.

It further appears from the records of said Commission that on December 17, 1902, the Choctaw and Chickasaw Citizenship Court, created under the provisions of the Act of Congress approved July 1, 1902 (32 Stats., 641), "set aside, annulled, vacated and held for naught" the aforesaid judgment of the United States Court for the Southern District of Indian Territory.

Thereafter, the record in the above case was certified to the Choctaw and Chickasaw Citizenship Court, for a trial de novo, which court, on November 29, 1904, in the case entitled, "William

Heighton Brown, et al. vs. Choctaw and Chickasaw Nations" (Choctaw Chickasaw Citizenship Court Case No. 73, Tishomingo Docket),
 "ordered, adjudged and decreed that the petition of the plaintiffs, William Heighton Brown (or William Knighton Brown), Caswell Marion Brown, Polly Ann Peck (nee Brown), George E. Brown (or George G. Brown), Henry Ellis Brown (or Henry Alice Brown), Sarah Brown, Mary Brown, Menie Brown (or Mamie Brown), Alice Brown, George Brown, Mendie Brown (or Maudie Brown), Willie Brown, Florence Peck, Oscar Peck, Benjamin Grant Peck, Andrew Peck, William Emma Brown (or Willie Emma Brown), James Hurton Nichols, (or James Bruton Nichols), Oney Mayberry Nichols (or Orin Mayberry Nichols), John William Beffle Nichols, Della May Nichols, Nancy Velmer Nichols, James Willis Nichols, Maggie May Nichols, Myrtle Nichols, Lenie Alta Nichols, William Buford Brown, Nancy Caroline Nichols, Rebecca E. Brown (or Becky Brown), Rebecca C. Brown (or Rebecca Brown), Amanda Melvina Nichols, Amanda Brown, Nancy J. Brown (or Nancy Jane Brown), Sarah Brown,
 be denied, and that they be declared not citizens of the Choctaw Nation, and not entitled to enrollment as such citizens, and not entitled to any rights whatever flowing therefrom."

On December 12, 1904, orders were entered of record by the Commission to the Five Civilized Tribes dismissing the applications for the enrollment of Mary E. McCarty, William Ernan Johnston, Minnie Gertrude Brown, Henry Hiten Brown, Elbert Knightington Brown, Otis Dewey Peck, Virgie Peck, Louis Herman Nichols and Golda Ula Nichols as citizens by blood of the Choctaw Nation, and on March 18, 1905, an order was entered of record dismissing the application for the enrollment of Fannie C. Brown as a citizen by

blood of said nation. All of said applicants were dismissed for the reason that their parents through whom they claim their rights to enrollment as citizens by blood of the Choctaw Nation, had been denied by a decree of the Choctaw and Chickasaw Citizenship Court.

On December 12, 1904, orders were entered of record by the Commission to the Five Civilized Tribes dismissing the applications for the enrollment of Eli W. Brown, Bessie Nichols and Osa Nichols as citizens by intermarriage of the Choctaw Nation, for the reason that the persons through whom they claim their rights had also been denied by a decree of the Choctaw and Chickasaw Citizenship Court.

On March 30, 1905, the Commission to the Five Civilized Tribes denied the application for the enrollment of Susie Brown as a citizen by blood of the Choctaw Nation, and on April 5, 1906 (I.T.D. 3810-1906), the department set aside said decision of the Commission and returned the record to this office for a full investigation upon its merits.

Under the regulations adopted by the Commissioner to the Five Civilized Tribes of January 2, 1906, there was filed on February 6, 1906, by Cruce, Cruce and Blackmore, of Ardmore, Indian Territory, attorneys for the petitioners, petitions praying that William E. Brown, Nancy A. Brown, Minnie Hudson, Sarah Johnston, Oscar Lee Johnston, William Erman Johnston, Rebecca Brown, Minnie Gertrude Brown, Henry Hiten Brown, Rubie Dill Brown, Eli W. Brown, Mary A. Johnston, Roy Lester Johnston, Edna A. Johnston, Rebecca McCarty, William A. McCarty, Mary E. McCarty, William E. Brown, Nancy Jane Brown, George Brown, Alice Brown, Susie Brown, Cletus Brown, Clarence Brown, A. J. Peck, Pelly Ann Peck, Minnie Peck, Oscar Sherman Peck, Benjamin Grant Peck, Andrew Peck, O. D. Peck,

Virgie Peck, Prebble Peck, C. M. Brown, Ananday Brown, Mandy Brown, William Brown, Elbert K. Brown, Annie Jewel Brown, George C. Brown, Sarah Brown, Willie Emma Brown, Cassie Brown, Goldie Brown, J. B. Nichols, Nancy Nichols, Belma Nichols, John W. B. Nichols, Bessie Deaton Nichols, Louie Herman Nichols, Golda Eula Nichols, Silva Jewel Nichols, Della May Scott, Nema Scott, Grin M. Nichols, Amanda Nichols, Myrtle Nichols, Lenie Nichols, James W. Nichols, Osa Nichols, Cora Lee Nichols and Maggie Angel be enrolled as citizens of the Choctaw Nation.

All of the above petitioners, with the exception of Ollie McCarty, Lita Lois Scott, Daphne Myrtle Nichols and Teddy Golden Johnston, are identical with the applicants for whom application has been made for enrollment as citizens of the Choctaw Nation.

On April 16, 1906, the principal petitioners, their attorneys, Cruce, Cruce & Bleakmore, of Ardmore, Indian Territory, and Messrs. Mansfield, McMurray & Cornish, attorneys for the Choctaw and Chickasaw Nations, of South McAlester, Indian Territory, were advised that the Commissioner to the Five Civilized Tribes would at his office at Muskogee, Indian Territory, on Monday, May 14, 1906, at nine o'clock A.M., hear such testimony and receive such other evidence as might be submitted by the petitioners in support of their applications for enrollment as citizens of the Choctaw Nation, and by the attorneys for the Choctaw and Chickasaw Nations.

On April 16, 1906, William W. Brown, father of Susie Brown, Cruce, Cruce & Bleakmore, attorneys for said Susie Brown, and Mansfield, McMurray & Cornish, attorneys for the Choctaw and Chickasaw Nations, were advised that on April 6, 1906, the Department set aside the decision rendered by the Commission on March 20, 1906, and returned the record in said case with in-

structions that a full investigation be made of the rights of said Susie Brown to enrollment as a citizen by blood of the Choctaw Nation, that the testimony of creditable witnesses be required showing her Choctaw blood, if any, the time and place of her birth, her various residences, her ancestors, the privileges, if any, enjoyed by her and her parents as citizens of the Choctaw Nation, and notified that the Commissioner to the Five Civilized Tribes would at his office at Muskogee, Indian Territory, on Monday, May 14, 1906, at nine o'clock A.M., hear such testimony and receive such other evidence as might be submitted in support of said application, investigation to be conducted along the lines indicated by Department letter above referred to.

On motion of Attorney for applicants, the hearing in the matter of the above application was continued on April 26, 1906, to May 21, 1906.

On May 21, 1906, proceedings were had in the matter of said applications in pursuance to the notices above mentioned.

It appears from the record herein that the applicants, William M. Brown, Cassell M. Brown, Pelly Ann Peck, George G. Brown, Nancy A. Brown and Bettie McCarty, are the children of the principal applicant, William B. Brown, and Rebecca Cooper (now deceased), who is alleged to have been a Choctaw Indian, and the daughter of William Cooper, who was the son of Johnny Cooper, an alleged Choctaw Indian, who resided near the line between the states of Tennessee and Mississippi; that Sarah Johnston, Becky Brown, Mary Johnston, Mamie (or Minnie) Hudson, Alice Brown, George Brown, Susie Brown, Fannie C. Brown and Willie Clarence Brown, are the children of the applicants

William N. Brown and Nancy J. Brown, (the latter an applicant for intermarried rights); that William Erman, Oscar Lee and Teddy Golden Johnston are the children of the applicant, Sarah Johnston, and J. A. Johnston, a non-citizen; that Minnie Gertrude, Henry Niten and Rubie Dill Brown are the children of the applicants, Becky Brown and Eli W. Brown, (the latter an applicant for intermarried rights); that Roy Lester and Edna Arvel Johnston are the children of the applicant, Mary Johnston, and Jace J. Johnston, a non-citizen; that Maudie, Willie, Elbert Knightington, and Annie Jewell Brown are the children of the applicant, Caswell M. Brown and Amanda Brown (the latter an applicant for intermarried rights); that Florence, Oscar, Benjamin, Andrew, Otis Dewey Virgie and Prebble peck are the children of the applicant, Polly Ann Peck and Andrew J. Peck (the latter an applicant for intermarried rights); that Willie Emma, Cassie and Goldie Brown are the children of the applicants, George G. Brown and Sarah Brown (the latter an applicant for intermarried rights); that Mary Athel, William A. and Ollie McCarty are the children of the applicant, Bettie McCarty, and Oliver McCarty, a non-citizen; that James B. Nichols and Orin M. Nichols are the children of Wilson Nichols (now deceased), a non-citizen, and Delitha Cooper (now deceased), who is alleged to have been a Choctaw Indian and the daughter of John Cooper, above referred to; that John W. B. Nichols, Della May Scott and Nancy V. Nichols are the children of the applicant, James B. Nichols and Nancy C. Nichols (the latter an applicant for intermarried rights); that Louie Herman, Golda Uls and Sylvie Jewel Nichols are the children of the applicant, John W. B. Nichols and Bessie Nichols (the latter an applicant for

intermarried rights); that Wema Kay and Lita Lois Scott are the children of the applicant, Della Kay Scott, and Burris Scott, a non-citizen; that James W., Maggie K., Nettie Myrtle and Lonie A. Nichols are the children of the applicant, Orin E. Nichols and Amanda E. Nichols (the latter an applicant for intermarried rights); and that the applicants, Cera Lee and Daphne Myrtle Nichols, are the children of the applicants, James W. Nichols and Osa Nichols (the latter an applicant for intermarried rights).

The applicant, William B. Brown, claims his right to citizenship in the Choctaw Nation by the virtue of his marriage on February 10, 1888, under the laws of the state of Arkansas, to Becky Cooper (now deceased); that Nancy Brown claims her right to enrollment as a citizen by intermarriage by virtue of her marriage to the applicant, William N. Brown, on September 21, 1879; that Eli W. Brown claims his right to enrollment as a citizen by intermarriage by virtue of his marriage on August 21, 1899, under the laws, customs and usages of the Chickasaw Nation to the applicant, Becky Brown, both of said applicants being at said time residents in good faith of the Chickasaw Nation; that Amanda Brown claims her right to enrollment as a citizen by intermarriage by virtue of her marriage on December 2, 1886, to the applicant, Caswell N. Brown; that Andrew J. Peck claims his right to enrollment as a citizen by intermarriage by virtue of his marriage on December 15, 1887, under the laws of the state of Arkansas to the applicant, Polly A. Peck; that Sarah Brown claims her right to enrollment as a citizen by intermarriage by virtue of her marriage to George G. Brown on June 3, 1895; that the applicant, Nancy C. Nichols claims her right to enrollment as a citizen by intermarriage by virtue of her marriage to the applicant, James H.

Nichols, on March 9, 1873; that the applicant, Bessie Nichols, claims her right to enrollment as a citizen by intermarriage by virtue of her marriage on September 11, 1898, to the applicant, John W. B. Nichols; that Amanda M. Nichols claims her right to enrollment as a citizen by intermarriage by virtue of her marriage on October 20, 1878, to the applicant, Orin V. Nichols; and that Osa Nichols claims her right to enrollment as a citizen by intermarriage by virtue of her marriage on April 27, 1899, to the applicant, James W. Nichols.

It does not appear from the record herein or from the records in the possession of this office that the applicant, Andrew J. Peck, has ever been admitted to Choctaw citizenship by a duly constituted court or committee of the Choctaw Nation, nor has said applicant ever been married to Polly Ann Peck, through whom he claims his intermarried rights, by virtue of a license issued by the tribal authorities of either the Choctaw or Chickasaw Nation.

At the hearing before the Commissioner to the Five Civilized Tribes on May 21, 1906, William N. Brown, Caswell M. Brown, James H. Nichols and Orin M. Nichols testified that in 1894, they, together with the other applicants herein who were living at said time, petitioned the Choctaw Council for admission as citizens of the Choctaw Nation; that no action having been taken thereon, they, in 1896, appeared before the Choctaw Census Commission and made application to be enrolled upon the 1896 Choctaw Census Roll; and that some time in January, 1897, they received a certificate from the Secretary of the Choctaw Revisory Board, wherein it appeared that they had been enrolled upon the 1896 Choctaw Census Roll. Said applicants further testified

that prior to 1896 they had been permitted to issue permits for their tenants, held lands, and were not subject to any tribal tax which was due from all non-citizens who were engaged in the mercantile business.

On June 4, 1906, John M. Gamblin testified that he was acquainted with the applicants herein, and that in October 1894, he having business before the Choctaw Council, presented on behalf of the applicants herein who were living at that time, a petition praying that they be admitted as citizens of the Choctaw Nation, and that he does not know what action, if any, was ever taken thereon.

Upon an examination of the tribal rolls of the Choctaw Nation in the possession of this office, it appears that the applicants, William B. Brown, William M. Brown, Nancy J. Brown, Caswell M. Brown, Amanda Brown, Polly Ann Peck, Andrew J. Peck, George G. Brown, Sarah Brown, Nancy A. Brown, Bettie McCarty, Sarah Johnston, Becky Brown, Mary Johnston, Mamie (or Winnie) Hudson, Alice Brown, George Brown, Susie Brown, Maudie Brown, Willie Brown, Florence Peck, Oscar Peck, Benjamin Peck, Andrew Peck, James B. Nichols, Nancy C. Nichols, Orlin M. Nichols, Amanda M. Nichols, John W. M. Nichols, Della May Scott, Nancy V. Nichols, James W. Nichols, Maggie M. Nichols, Nettie Myrtle Nichols and Lonie A. Nichols, are identified upon the 1896 Choctaw Census Rolls opposite numbers 1688, 1691, 1692, 1701, 1702, 10518, 10517, 1705, 1706, 1689, 1690, 1693, 1694, 1695, 1696, 1697, 1698, 1699, 1703, 1704, 10519, 10520, 10521, 10522, 9303, 9308, 9312, 9313, 9309, 9310, 9311, 9314, 9315, 9316, and 9317, respectively.

It further appears from the record herein that all of

the applicants, that were living on June 23, 1878, were residents in good faith of the Indian Territory on said date.

The evidence in this case further shows that the applicant, Daphne Myrtle Nichols, died on June 27, 1901.

I am of the opinion that in accordance with the opinions of the Assistant Attorney General for the Department of the Interior of February 10, 1903 (I.T.D. 10353-1904), and December 8, 1905 (I.T.D. 3693-1905), in the case of Lula West, the action of the Commission to the Five Civilized Tribes, and the subsequent action of the United States Court for the Southern District of Indian Territory, and the Choctaw and Chickasaw Citizenship Court, upon the right of the applicants who applied to the Commission to the Five Civilized Tribes in 1906, with the exception of Andrew J. Peck, was without authority of law, and of no force and effect upon the status of said applicants as citizens of the Choctaw Nation.

I am further of the opinion that the orders of the Commission to the Five Civilized Tribes of December 12, 1904 and March 18, 1905, dismissing the applications for the enrollment of Mary E. McCarty, William Erman Johnston, Winnie Gertrude Brown, Fannie C. Brown, Henry Eiten Brown, Elbert Knightington Brown, Otis Dewey Peck, Virgie Peck, Louis Herman Nichols and Golda Ula Nichols as citizens by blood of the Choctaw Nation, and Eli W. Brown, Bessie Nichols and Osa Nichols as citizens by intermarriage of the Choctaw Nation, should be rescinded.

I am further of the opinion that in accordance with the opinions of the Assistant Attorney General for the Department of the Interior of March 3, 1905 (I.T.D. 187-1905) and March 10,

1906 (I.T.D. 9969-1906), Nancy A. Brown, Bettie McCarty, Mary Ethel McCarty, William H. Brown, Sarah Johnston, Becky Brown, Mary Johnston, Mamie (or Minnie) Hudson, Alice Brown, George Brown, Susie Brown, William Erman Johnston, Minnie Gertrude Brown, Henry Niten Brown, Fannie C. Brown, Caswell M. Brown, Maudie Brown, Willie Brown, Elbert Knightington Brown, Polly A. Peck, Florence Peck, Oscar Peck, Benjamin Peck, Andrew Peck, Otis Dewey Peck, Virgie Peck, George G. Brown, Willie Emma Brown, James B. Nichols, Della May Scott, Nancy V. Nichols, John W. B. Nichols, Louie Herman Nichols, Golda Ula Nichols, Orin A. Nichols, James W. Nichols, Maggie M. Nichols, Nettie Myrtle Nichols and Lonie A. Nichols should be enrolled as citizens by blood of the Choctaw Nation, under the provisions of the Acts of Congress approved June 28, 1898 (30 Stats., 495), and July 1, 1902 (32 Stats., 641), and it is so ordered.

I am further of the opinion that William B. Brown, Nancy Brown, Eli W. Brown, Amanda Brown, Sarah Brown, Nancy C. Nichols, Bessie Nichols, Amanda M. Nichols and Osa Nichols should be enrolled as citizens by intermarriage of the Choctaw Nation, under the provisions of the Acts of Congress approved June 28, 1898 (30 Stats., 495) and July 1, 1902 (32 Stats., 641), and it is so ordered.

I am further of the opinion that the application made for the enrollment of Andrew J. Peck as a citizen by intermarriage of the Choctaw Nation should be denied, under the provisions of the Act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered.

I am further of the opinion that William A. McCarty, Ollie McCarty, Oscar Lee Johnston, Willie Clarence Brown, Roy

Lester Johnston, Nema Arvel Johnston, Teddy Golden Johnston, Rubie Bill Brown, Annie Jewell Brown, Prebble Peck, Cassie Brown, Goldie Brown, Nema May Scott, Lita Lois Scott, Sylvie Jewel Nichols and Cera Lee Nichols should be enrolled as citizens by blood of the Choctaw Nation, under the provisions of the Act of Congress approved April 26, 1906 (Public No. 129), and it is so ordered.

I am further of the opinion that the application made for the enrollment of Daphne Myrtle Nichols as a citizen by blood of the Choctaw Nation should be dismissed, and it is so ordered.

Thos Birby,
COMMISSIONER.

Muskogee, Indian Territory,

Aug. 13, 1906.

7-5100

Waskogee, Indian Territory, August 13, 1906.

James B. Nichols,
Comanche, Indian Territory.

Dear Sir:

Inclosed herewith you will find a copy of the decision of the Commissioner to the Five Civilized Tribes, rendered August 13, 1906, granting the application for the enrollment of James B. Nichols and Nancy V. Nichols as citizens by blood of the Choctaw Nation and Nancy C. Nichols as a citizen by intermarriage of said Nation.

The decision, with the record of proceedings in the case, is this day transmitted to the Secretary of the Interior for review. The final decision of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

W. L. R. *James B. Nichols*
SIGNED

Commissioner.

Registered.

HAH 6/13

Muskegee, Indian Territory, August 13, 1906.

Mansfield, McMurray & Cornish,

Attorneys for Choctaw and Chickasaw Nations,

South McAlester, Indian Territory,

Gentlemen:

Inclosed herewith you will find a copy of the decision of the Commissioner to the Five Civilized Tribes, rendered August 13, 1906, granting the application for the enrollment of Nancy A. Brown, Bettie McCarty, Mary Ethel McCarty, William M. Brown, Sarah Johnston, Becky Brown, Mary Johnston, Mamie (or Minnie) Hudson, Alice Brown, George Brown, Susie Brown, William Erman Johnston, Minnie Gertrude Brown, Henry Niten Brown, Fannie C. Brown, Caswell M. Brown, Maudie Brown, Willie Brown, Elbert Knightington Brown, Polly A. Peck, Florence Peck, Oscar Peck, Benjamin Peck, Andrew Peck, Otis Dewey Peck, Virgie Peck, George G. Brown, Willie Emma Brown, James E. Nichols, Della May Scott, Nancy V. Nichols, John W. W. Nichols, Louie Herman Nichols, Golda Ula Nichols, Orin M. Nichols, James W. Nichols, Maggie M. Nichols, Nettie Myrtle Nichols, Lonie A. Nichols, William A. McCarty, Ollie McCarty, Oscar Lee Johnston, Willie Clarence Brown, Roy Lester Johnston, Edna Arvel Johnston, Teddy Golden Johnston, Rubie Dill Brown, Annie Jewell Brown, Prebble Peck,

Mansfield, McMurray & Cornish---2

Cassie Brown, Goldie Brown, Wema May Scott, Lita Lois Scott, Sylvie Jewel Nichols and Cora Lee Nichols, as citizens by blood, and for the enrollment of William E. Brown, Nancy Brown, Eli W. Brown, Amanda Brown, Sarah Brown, Nancy C. Nichols, Bessie Nichols, Amanda M. Nichols and Osa Nichols, as citizens by intermarriage, of the Cheetaw Nation; denying the application for the enrollment of Andrew J. Peek as a citizen by intermarriage, and dismissing the application for the enrollment of Daphne Myrtle Nichols as a citizen by blood, of the Cheetaw Nation.

The decision, with the record of proceedings in the case, is this day transmitted to the Secretary of the Interior for review. The final decision of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

Registered.

Incl. HAN 17/11

Commissioner.

7-2060

Muskogee, Indian Territory, August 13, 1906.

Cruce, Cruce & Bleakmore,
Attorneys at Law,
Ardmore, Indian Territory,

Gentlemen:

Inclosed herewith you will find a copy of the decision of the Commissioner to the Five Civilized Tribes, rendered August 13, 1906, granting the application for the enrollment of Nancy A. Brown, Bettie McCarty, Mary Ethel McCarty, William M. Brown, Sarah Johnston Becky Brown, Mary Johnston, Mamie (or Minnie) Wadson, Alice Brown, George Brown, Tula Brown, William Erman Johnston, Minnie Gertrude Brown, Henry Witen Brown, Fannie C. Brown, Cassell M. Brown, Maude Brown, Willie Brown, Elbert Knightington Brown, Polly A. Peck, Florence Peck, Oscar Peck, Benjamin Peck, Andrew Peck, Otis Dewey Peck, Virgie Peck, George G. Brown, Willie Egan Brown, James E. Nichols, Della May Scott, Nancy V. Nichols, John W. B. Nichols, Louis Herman Nichols, Golda Ula Nichols, Orin W. Nichols, James W. Nichols, Maggie M. Nichols, Nettie Myrtle Nichols, Lenie A. Nichols, William A. McCarty, Ollie McCarty, Oscar Lee Johnston, Willie Clarence Brown, Roy Lester Johnston, Edna Arvel Johnston, Teddy Golden Johnston, Rubie Hill Brown, Annie Jewell Brown, Freddie Peck,

Cassie Brown, Goldie Brown, Nema May Scott, Lita Lois Scott, Sylvia Jewel Nichols and Cera Lee Nichols, as citizens by blood, and for the enrollment of William E. Brown, Nancy Brown, Eli W. Brown, Amanda Brown, Sarah Brown, Nancy C. Nichols, Nannie Nichols, Amanda M. Nichols and Osa Nichols, as citizens by intermarriage, of the Choctaw Nation; denying the application for the enrollment of Andrew J. Peck, as a citizen by intermarriage, and dismissing the application for the enrollment of Daphne Myrtle Nichols as a citizen by blood of the Choctaw Nation.

The decision, with the record of proceedings in the case, is this day transmitted to the Secretary of the Interior for review. The final decision of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

Registered,

Commissioner.

Incl. NAW 17/11

Choctaw 6030

Ephraim E. Shockley

6030

Decision of Commissioners enrolling
applicants reversed by Sec of Interior
in accordance with opinion of Atty. Gen.
of U.S. and schedules containing names
disapproved by Dept March 1, 1907.

March 1, 1909 Dept requests report 4-1409
Report to Dept

Transferred from 75109

May 20, 1906 See Pet. # C-16 for Record

Duplicate record bound

See Pet # C-16

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of Mattie Shockley, et al., as citizens of the Choctaw Nation, consolidating the applications of

Mattie Shockley, et al	7-5238
Lula West, et al.,	7-5191
Ephriam E. Shockley, et al.,	7-5109
Charles L. Shockley, et al.,	7-5188
Lenora Parker, et al.,	7-5190
Albert R. Shockley,	7-5193
Elsora Shockley, et al.,	7-5189
Pauline Shockley, et al.,	7-D-51

D E C I S I O N.

It appears from the record herein that on October 4, 1898, application was made to the Commission to the Five Civilized Tribes for the enrollment of Mattie Shockley as a citizen by intermarriage of the Choctaw Nation, and for the enrollment of her son, John E. Shockley, as a citizen by blood of the Choctaw Nation; on September 24, 1898, application was made by Felix K. West for the enrollment of himself as a citizen by intermarriage of the Choctaw Nation, and for the enrollment of his wife, Lula West, and his three minor children, Roy, Marie, and Corine West, as citizens by blood of the Choctaw Nation; on September 22, 1898, application was made by Ephriam E. Shockley for the enrollment of himself and two minor children, Mattie and Leverett Shockley, as citizens by blood of the Choctaw Nation, and for the enrollment of his wife, Ava Shockley, as a citizen by intermarriage of the Choctaw Nation; on September 24, 1898, application was made by Charles L. Shockley for the enrollment of himself and two minor children, Albert and Hurman Shockley, as citizens by blood of the Choctaw Nation, and for the enrollment of his wife Callie Shockley, as a citizen by intermarriage of the Choctaw Nation; on September 24, 1898, application was made by Lenora Parker for the enrollment of herself and minor child, Trevor M. Parker, as citizens by blood of the Choctaw Nation; on September 24, 1898, application was made by Albert R. Shockley for the enrollment of himself as a citizen by blood of the Choctaw Nation; on September 24, 1898, application was made by Elsora Shockley for the enrollment of herself as a citizen by intermarriage of the Choctaw Nation, and for the enrollment of her child, Ethel Shockley, as a citizen by blood of the Choctaw Nation; on September 24, 1898, application was made by Pauline Shockley for the enrollment of herself as a citizen by intermarriage of the Choctaw Nation, and for the enrollment of her son, Albert P. Shockley, as a citizen by blood of the Choctaw Nation.

On November 12, 1900, written application was made to the Commission to the Five Civilized Tribes for the enrollment of Elva May Shockley, minor child of Ephriam E. Shockley and Ava Shockley; on December 14, 1899, written application was made for the enrollment of Mamie Shockley, minor child of Charles L. Shockley and Callie Shockley; and on October 30, 1899, and April 29, 1902, written application was also made for the enrollment of Ludie F. Parker and William Leslie Parker, respectively, minor children of Lenora Parker and W. I. Parker, non-citizen white man.

It appears from the records of the Commission to the Five Civilized Tribes that on September 9, 1896, in the case entitled "F. K. West vs. Choctaw Nation" (1896 Choctaw Citizenship Docket, Case No. 955), original application was made to said Commission, under the provisions of the Act of Congress approved June 10, 1896 (29 Stat., 321), for admission to citizenship in the Choctaw Nation of the applicants, Mattie Shockley (as Mattie L. Shockley), Felix K. West (as F. K. West), Ava Shockley, Callie Shockley, and Elzora Shockley as citizens by intermarriage of the Choctaw Nation, and John E. Shockley (as Eddie Shockley), Lula West, Roy West, Ephriam E. Shockley, Mattie Shockley, Leverett Shockley, Charles L. Shockley, Albert Shockley, Lenora Parker (as Nora Parker), Albert R. Shockley (as Albert Shockley), and Ethel Shockley as citizens by blood of the Choctaw Nation; that on December 5, 1896, said Commission rendered its decision therein admitting Mattie Shockley (as Mrs. Mattie L. Shockley), Felix K. West (as F. K. West), Ava Shockley, Callie Shockley, and Elzora Shockley as citizens by intermarriage of the Choctaw Nation, and John E. Shockley (as Eddie Shockley), Lula West, Roy West, Ephriam E. Shockley, Mattie Shockley, Leverett Shockley, Charles L. Shockley, Albert Shockley, Lenora Parker (as Nora Parker), Albert R. Shockley (as Albert Shockley), and Ethel Shockley as citizens by blood of said nation. From this decision of the Commission, an appeal was taken by the Choctaw Nation to the United States Court for the Central District of Indian Territory, which court in the case entitled "F. K. West vs. Choctaw Nation" (Central District Citizenship Case No. 226), affirmed the decision of said Commission, admitting Mattie Shockley (as Mattie L. Shockley), Felix K. West (as F. K. West), Ava Shockley, Callie Shockley, and Elzora Shockley as citizens by intermarriage of the Choctaw Nation, and John E. Shockley (as Eddie Shockley), Lula West, Roy West, Ephriam E. Shockley, Mattie Shockley, Leverett Shockley, Charles L. Shockley, Albert Shockley, Lenora Parker (as Nora Parker), Albert R. Shockley (as Albert Shockley), and Ethel Shockley as citizens by blood of the Choctaw Nation.

It further appears from the records of said Commission that on December 17, 1902, the Choctaw and Chickasaw Citizenship Court created under the provisions of the Act of Congress approved July 1, 1902, (32 Stat., 641), "set aside, annulled, vacated and held for naught" the aforesaid judgment of the United States Court for the Central District of Indian Territory.

Thereafter, the record in the above case was certified to the Choctaw and Chickasaw Citizenship Court for a trial de novo, which court on March 21, 1904, in the case of "F. K. West, et al., vs. Choctaw and Chickasaw Nations" (Choctaw-Chickasaw Citizenship Court Case No. 42 South McAlester Docket), "ordered, adjudged, and decreed that the petition of the plaintiffs, F. K. West, Ava Shockley, Callie Shockley, Elzora Shockley (or Alsora Shockley), Mattie L. Shockley (now Mattie L. Osborn), Charles L. Shockley,

Ephram E. Shockley (or Ephraim E. Shockley), Eddie Shockley, Lula West, Albert Shockley, Roy West, Marie West, Mattie Shockley, Leverett Shockley, Ethel Shockley, Nora Shockley (now Nora Parker), and Albert R. Shockley, be denied, and that they be declared not citizens of the Choctaw Nation, and not entitled to enrollment as such citizens, and not entitled to any rights whatsoever flowing there from."

On May 27, 1904, orders were entered of record by the Commission to the Five Civilized Tribes, dismissing the applications for the enrollment of Corine West, Elva May Shockley, Hurman Shockley, Mamie Shockley, Trevor M. Parker, Ludie F. Parker and William Leslie Parker as citizens by blood of the Choctaw Nation, for the reason that their parents through whom they claim their right to enrollment as citizens by blood of the Choctaw Nation had been denied by a decree of the Choctaw and Chickasaw Citizenship Court.

On December 16, 1904, the applicant, Lula West, forwarded a petition to the President, praying him to cause an investigation to be made of the allegations contained in said petition, and if said allegations were found to be true, to cause her name to be placed upon the final roll of citizens by blood of the Choctaw Nation.

Said petition was on February 15, 1905, (I.T.D. 10353-1904) forwarded by the Department to the Commission to the Five Civilized Tribes with instructions to permit the petitioner to submit such testimony in support of her claim as she may see fit, and enclosed a copy of an opinion of the Assistant Attorney General for the Department of the Interior of February 10, 1905 (I. T. D. 10353-1904), wherein it was held that said Commission had jurisdiction to examine into the claimants cause, and should adjudicate it upon its merits, regardless of the judgment of the Choctaw and Chickasaw Citizenship Court.

A motion for review was filed with the Department by the Attorneys for the Choctaw and Chickasaw Nations, and on December 13, 1905, the Department (I.T.D. 6380-1905) forwarded a copy of an opinion of the Assistant Attorney General for the Department of the Interior of December 8, 1905 (I.T.D. 3693-1905), wherein he adhered to his former opinion rendered on February 10, 1905, and held that Lula West having on January 9, 1890, been admitted to citizenship in the Choctaw Nation by the Secretary of the Interior, the Commission to the Five Civilized Tribes had no jurisdiction under the Act of June 10, 1896, to pass upon her rights, and the United States Court for the Central District of Indian Territory, and the Choctaw and Chickasaw Citizenship Court on appeal were also without jurisdiction. Copies of this opinion were forwarded the applicant, Lula West, and her attorney of record, on December 23, 1905.

Under the regulations adopted by the Commissioner to the Five Civilized Tribes on January 2, 1906, there was filed on January 22, 1906, by Thomas Norman, of Ardmore, Indian Territory, attorney for the petitioners, a petition verified by Lula West, and submitted on behalf of Lula West, F. K. West, Roy West, Mariu West, Corine West, Elzora Shockley, Ethel Jones (nee Shockley), Charles L. Shockley, Callie Shockley, Albert Shockley, Herman Shockley, Mamie Shockley, Herbert E. Shockley, E. E. Shockley, Ava Shockley, Mattie Shockley, Leverett Shockley, Elva May Shockley, Plasseo Shockley, Pauline Daniel (nee Shockley), Albert Shockley, Mattie L. Osborn (nee Shockley), Eddie Shockley, Lenora Parker, (nee Shockley), Treva Myrtle Parker, Ludie Franklin Parker, William Leslie Parker, and

Albert R. Shockley, praying that they be enrolled as citizens of the Choctaw Nation.

All of the above petitioners, with the exception of Herbert E. and Plasse Shockley, are identical with the applicants for whom application was made prior to December 25, 1902, for enrollment as citizens of the Choctaw Nation.

On February 8, 1906, the principal petitioner, Lula West, her attorney, Thomas Norman of Ardmore, Indian Territory, and Messrs. Mansfield, McMurray & Cornish, attorneys for the Choctaw and Chickasaw Nations, of South McAlester, Indian Territory, were advised that the Commissioner to the Five Civilized Tribes would, at his office at Muskogee, Indian Territory, on Monday, March 5, 1906, at four o'clock P. M., hear such testimony and receive such other evidence as might be submitted by the petitioners in support of their applications for enrollment as citizens of the Choctaw Nation, and by the attorneys for the Choctaw and Chickasaw Nations.

By agreement of counsel, the hearing in this case was continued from four o'clock P. M., on Monday, March 5, 1906, until seven o'clock P. M., on the same day, at which time proceedings were had pursuant to the notices above mentioned.

It appears from the record herein that on July 15, 1889, on appeal from the adverse action of the Choctaw National Council, the United States Indian Agent, Leo E. Bennett, rendered a decision admitting John Shockley (now deceased), Mattie L. Shockley, William Shockley (now deceased), Elzora Shockley, Charles L. Shockley, Ephriam Shockley, Lula Shockley, and Robert Shockley to Choctaw citizenship, said decision being on January 9, 1890, approved by the Secretary of the Interior. It is contended by the applicants herein that no such person as Robert Shockley ever existed; that the same was an error, and should have been Albert Shockley (now deceased), a son of John Shockley, the principal petitioner before the Indian Agent.

It further appears from the record herein that the principal applicant, Mattie Shockley, who was admitted by the Indian Agent as the wife of John Shockley, was on January 22, 1899, married to J. R. Osborn, a non citizen white man; that John E. Shockley is a son of said Mattie Shockley and John Shockley, now deceased, (admitted by the Indian Agent); that Lula West (admitted by the Indian Agent) is the daughter of John Shockley, above mentioned, and Fatima Shockley (now deceased), a non-citizen white woman; that Roy, Marie and Corine West are the children of said Lula West and Felix K. West, an applicant herein for enrollment as a citizen by intermarriage of the Choctaw Nation; that Ephriam E. Shockley (admitted by the Indian Agent) is the son of John Shockley and Fatima Shockley, above mentioned; that Mattie, Leverett and Elva May Shockley are the children of said Ephriam E. Shockley and Ava Shockley, an applicant herein for enrollment as a citizen by intermarriage of the Choctaw Nation; that Charles L. Shockley (admitted by the Indian Agent) is the son of John Shockley and Fatima Shockley, above mentioned; that Albert, Hurman and Mamie Shockley are the children of said Charles L. Shockley and Callie Shockley, an applicant herein for enrollment as a citizen by intermarriage of the Choctaw Nation; that Lenora Parker, was born about the year 1878, and is the daughter of William Shockley, deceased, (admitted by the Indian Agent) and Bettie Shockley (deceased), a non-citizen white woman; that Trevor M., Ludie P. and William Leslie Parker are the children of said Lenora Parker and W. I. Parker, a non-citizen white man; that

Albert R. Shockley is the son of William Shockley and Bettie Shockley, above mentioned; that the applicant Elzora Shockley, was by a decision of the Indian Agent admitted to Choctaw citizenship as the wife of William Shockley; that Ethel Shockley is the daughter of said Elzora Shockley and William Shockley, above mentioned; and that Albert P. Shockley was born in 1897 and is the son of Albert Shockley (now deceased) who (as Robert Shockley) was also admitted by the decision of the Indian Agent.

Upon an examination of the tribal rolls of the Choctaw Nation in the possession of this office, it appears that John E. Shockley, Lula West, Roy West, Ephriam E. Shockley, Mattie Shockley, Charles L. Shockley and Albert Shockley are identified upon the 1893 Choctaw Leased District Payment Roll, Chickasaw District, numbers 501, 581, 582, 498, 499, 497 and 500, respectively, enrolled thereon as citizens by blood of the Choctaw Nation.

It further appears from the record herein that the applicant, Felix K. West, was on August 20, 1889, under the laws of Tennessee, married to the applicant, Lula West; that the applicant Ava Shockley was on July 30, 1890, lawfully married to the applicant Ephriam E. Shockley; that the applicant, Callie Shockley, was on December 10, 1893, lawfully married to the applicant, Charles L. Shockley; and that Pauline Shockley was on November 2, 1896, lawfully married to Albert Shockley (now deceased), who (as Robert Shockley) was admitted to Choctaw citizenship by the decision of the Indian Agent.

It further appears from the record herein and from the records of the Commission to the Five Civilized Tribes that the applicants, Felix K. West, Lenora Parker, Trever M. Parker, Ludie F. Parker and William Leslie Parker, have never been enrolled by the Choctaw tribal authorities as members of the Choctaw tribe, or admitted to Choctaw citizenship by a duly constituted court or committee of the Choctaw Nation, or by the United States Indian Agent, nor has the applicant, Felix K. West, ever been married to the applicant, Lula West, through whom he claims his intermarried rights, by virtue of a license issued by the tribal authorities of the Choctaw Nation.

It further appears from the record herein that all of the applicants herein, who were living at said time, with the exception of Elzora Shockley and Ethel Shockley, were residents in good faith of Indian territory on June 28, 1898.

As to the applicant, Elzora Shockley, the evidence herein shows that she was born in the state of Arkansas, and resided there continuously until 1886, when she removed to the Indian Territory where she resided until 1889; that thereupon she returned to the state of Arkansas, where she resided continuously until 1900; and that the applicant, Ethel Shockley, was born in the state of Arkansas in about the year 1891, and resided continuously therein with her mother, Elzora Shockley, until 1900.

From the above, it is considered that the applicants, Elzora Shockley and Ethel Shockley, were not residents in good faith of Indian territory on June 28, 1898, as provided by Section 21 of the Act of Congress approved June 28, 1898 (30 Stat., 495).

It further appears from the record herein that on March 5, 1905, application was made to the Commissioner to the Five Civilized Tribes for the enrollment of Flansee Shockley and Herbert E. Shockley as citizens by blood of the Choctaw Nation. The applicant, Flansee Shockley was born on April 6, 1903, and is the daughter of the applicants, Ephriam E. Shockley and Ava Shockley; and that the applicant, Herbert E. Shockley, was born June 18, 1903, and is the

son of the applicants, Charles L. Shockley and Callie Shockley.
The Act of Congress approved March 3, 1905 (33 Stats., 1070) provides:

"That the Commission to the Five Civilized Tribes is authorized for sixty days after the date of the approval of this act to receive and consider applications for enrollment of children born subsequent to September twenty-fifth, nineteen hundred and two, and prior to March fourth, nineteen hundred and five, and who were living on said latter date, to citizens by blood of the Choctaw and Chickasaw tribes of Indians whose enrollment has been approved by the Secretary of the Interior prior to the date of the approval of this act; and to enroll and make allotments to such children."

I am of the opinion that inasmuch as the applicants, Plassee Shockley, and Herbert E. Shockley, are not the children of recognized and enrolled citizens by blood of the Choctaw Nation, whose enrollment had been approved by the Secretary of the Interior prior to March 3, 1905, I am now without authority to receive or consider their applications for enrollment as citizens by blood of the Choctaw Nation, and that the same should be dismissed, without prejudice to the applicants, and it is so ordered.

I am of the opinion that the orders of the Commission to the Five Civilized Tribes of May 27, 1904, dismissing the applications for the enrollment of Corine West, Elva May Shockley, Hurman Shockley, Mamie Shockley, Trever M. Parker, Ludie F. Parker and William Leslie Parker should be rescinded.

I am further of the opinion that in accordance with the opinions of the Assistant Attorney General for the Department of the Interior of February 10, 1905 (I.T.D. 10353-1904) and December 8, 1905 (I.T.D. 3693-1905), in the case of Lula West, that John E. Shockley, Lula West, Roy West, Marie West, Corine West, Ephraim E. Shockley, Mattie Shockley, Leverett Shockley, Elva May Shockley, Charles L. Shockley, Albert Shockley, Hurman Shockley, Mamie Shockley, Albert R. Shockley and Albert P. Shockley should be enrolled as citizens by blood of the Choctaw Nation, and that Mattie Osborn, Ava Shockley, Callie Shockley and Pauline Shockley should be enrolled as citizens by intermarriage of said Nation, under the provisions of the Acts of Congress approved June 28, 1898 (30 Stats., 495) and July 1, 1902 (32 Stats., 641), and it is so ordered.

I am further of the opinion that the applications made for the enrollment of Felix K. West and Elzora Shockley as citizens by intermarriage of the Choctaw Nation, and the applications for the enrollment of Lenora Parker, Trever M. Parker, Ludie F. Parker, William Leslie Parker and Ethel Shockley as citizens by blood of said nation should be denied under the provisions of the Act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered.

(Signed)

Tom Bixby
Commissioner.

Muskogee, Indian Territory,
March 19 1906.

7-5109.

COPY.

Muskogee, Indian Territory, May 4, 1906.

Ephriam E. Shockley,

Sulphur, Indian Territory.

Dear Sir:

You are hereby advised that the Commissioner to the Five Civilized Tribes on March 12, 1906, rendered his decision in the matter of the application for the enrollment of Mattie Shockley et al. as citizens of the Choctaw Nation, consolidating the applications of

Mattie Shockley, et al.,	7-5238
Lula West, et al.,	7-5191
Ephriam E. Shockley, et al.,	7-5109
Charles L. Shockley, et al.,	7-5133
Louisa Parker, et al.	7-5190
Albert R. Shockley,	7-5193
Elacra Shockley, et al.,	7-5139
Pauline Shockley, et al.,	7-D-51.

By this decision the application of yourself and your minor children, Mattie Shockley, Leverett Shockley and Elva May Shockley as citizens by blood, and that of your wife, Ava Shockley as a citizen by intermarriage of the Choctaw Nation was granted, and the application made for the enrollment of your minor child, Flossie Shockley, as a citizen of the Choctaw Nation was dismissed without prejudice.

Respectfully,

SIGNED

Wm. O. Beall.

Acting Commissioner.

7-5109

Muskogee, Indian Territory, May 4, 1906.

Thomas Norman,

Attorney at Law,

Ardmore, Indian Territory.

Dear Sir:

You have been furnished under a separate cover with a decision of the Commissioner to the Five Civilized Tribes of March 19, 1906, in the consolidated enrollment case of Mattie Shockley et al., in which the application made for the enrollment of Plassie Shockley and Herbert E. Shockley were dismissed without prejudice to the applicants.

It appears from the records of this office that Plassie Shockley was born April 6, 1903, and is the daughter of Ephraim E. and Ava Shockley, and that Herbert Shockley was born June 15, 1903, and is the daughter of Charles L. and Callie Shockley.

At the time of the rendition by the Commissioner of his decision of March 19, 1906, there was apparently no authority for the reception and consideration of the applications for the enrollment of these children. Since the rendition of said decision there was approved on April 26, 1906, by the President an act of Congress entitled "An Act to provide for the final disposition of the affairs of the Five Civilized Tribes in the Indian Terri-

I.N.--2

tory, and for other purposes", and which provides in part as follows:

"That for ninety days after approval hereof applications shall be received for enrollment of children who were minors living March fourth, nineteen hundred and six, whose parents have been enrolled as members of the Choctaw tribes, or have applications for enrollment pending at the approval hereof. . . ."

It is suggested that application be submitted for the enrollment of the two children referred to under the provisions of the Act of Congress approved April 26, 1906.

Respectfully,

SIGNED *Wm. O. Scall*

Acting Commissioner.

Ephraim E. Shockly

Ana "

Matthe "

Levineth "

+
Choctaw
+

~~Choctaw~~

Joseph McClister 226

August 30th 1897

+
Note: Ana E. Shockly
admitted as a
citizen by inter
marriage
+

7-5109.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

COPY.

In the matter of the application for the enrollment of
Elva May Shockly as a citizen by blood of the Choctaw Nation.

The applicant, Elva May Shockly, claims her right to enrollment as a citizen by blood of the Choctaw Nation through her father Ephriam E. Shockly. The right of the applicant's father, Ephriam E. Shockly, to citizenship in the Choctaw Nation having been adversely determined by a decree of the Choctaw and Chickasaw Citizenship Court, March 21, 1904, in case No. 42, upon the South McAlester docket of said court, it is hereby ordered that the application of Elva May Shockly for enrollment as a citizen by blood of the Choctaw Nation be dismissed.

COMMISSION TO THE FIVE CIVILIZED TRIBES,

(SIGNED)

Jams Wiley.

Chairman.

Muskogee, Indian Territory,

MAY 27 1904

Muskogee, Indian Territory, November 2, 1900.

E. E. Shookley,

Rush Springs, Indian Territory.

Dear Sir:

The Commission is in receipt of your letter of the 3rd of October, addressed to the United States Indian Agent, Union Agency, Muskogee, and by him referred to this Commission for answer.

You state that since your appearance before the Commission as an applicant for enrollment as a citizen of the Choctaw Nation, you have a child that you desire to enroll as a citizen of the Choctaw Nation and request that you be furnished with a birth certificate for this purpose.

In accordance with your request, there is enclosed you herewith, a blank of the description desired. In having the same executed, be careful to see that all blanks are properly filled, all names written in full, and in the event either the mother or attending physician or nurse making affidavit to the birth of the child, are unable to write and their signatures are by mark, that such signatures are attested by two disinterested parties as witnesses thereto. The Notary Public taking the acknowledgments of the mother and attending physician or nurse, must affix his notarial jurat and seal to each separate affidavit.

Yours truly,

Very truly yours,
E. E. Shookley

Washoe, Indian Territory, November 12, 1900.

Ephraim M. Shockley,

Rush Springs, Indian Territory.

Dear Sir:

The Commission is in receipt of the application for enrollment as a citizen of the Choctaw Nation of Elva May Shockley, the infant daughter of Ephraim M. and Ava T. Shockley, born October 12th, 1900 and the same being in proper form has been duly filed with the records of this Commission and the child listed for enrollment as a citizen of the Choctaw Nation.

Yours truly,

Acting Chairman.

7-5109

Muskogee, Indian Territory, March 12, 1901.

P. B. Townsend,

Rush Springs, Indian Territory:

Dear Sir:

Receipt is hereby acknowledged of your letter of the 8th instant in which you desire to be informed if E. E. Shookley and his family are on the Choctaw rolls as being prepared by this Commission.

Replying to your letter you are informed that the records of the Commission show that Ephraim E. Shookley, 29 years of age, of Ardmore, Indian Territory, and his wife, Ava Shookley and their children Mattie and Leverett Shookley, were listed for enrollment as citizens of the Choctaw Nation, having been admitted to such citizenship by judgment of the United States Court for the Central District of the Indian Territory rendered at South McAlester, Indian Territory, August 30th, 1897 in court case No. 226.

On November 23th, 1900, the Commission listed for enrollment as a citizen of the Choctaw Nation, Elva May Shookley, the infant daughter of E. E. and Ava Shookley upon presentation of proper affidavits as to her birth.

Yours truly,

7-6100

Acting Chairman.

Waukegan, Indian Territory, September 10, 1901

E. B. Shookley,

Rush Springs, Indian Territory.

Dear Sir:

Receipt is hereby acknowledged of your letter of August 27th, in which you desire to be informed if you and your family are recognized citizens of the Choctaw Nation and upon the final rolls thereof.

You are informed that the records of this office show that Ephriam B. Shookley, his wife and three children are listed for enrollment as citizens of the Choctaw Nation, having been so listed by reason of a judgment of United States Court rendered at South McAlester, Indian Territory, August 30th, 1897, admitting them to citizenship in the Choctaw Nation.

The rolls of citizenship of the Choctaw Nation will not become final until approved by the Secretary of the Interior and it is therefore impossible at this time to inform you whether your names will appear upon the final roll of citizenship of the Choctaw Nation.

Yours truly,

Assistant in Charge.

Muskogee, Indian Territory, October 15, 1902.

R. E. Shockley

Rush Springs, Indian Territory.

Dear Sir:

Receipt is hereby acknowledged of your letter of the 10th instant, relative to the appointment of the Commission at Chickasha, Indian Territory, and in which you desire to be advised if it is necessary for you to again appear before the Commission.

In reply to your letter you are advised that the Commission has made numerous appointments in the Choctaw and Chickasaw Nations, for the purpose of hearing the applications of certain classes of persons as provided by the following provision of the Choctaw-Chickasaw agreement, ratified September 25, 1902:

"During the ninety days first following the date of the final ratification of this agreement, the Commission to the Five Civilized Tribes may receive applications for enrollment only of persons whose names are on the tribal rolls, but who have not heretofore been enrolled by said Commission, commonly known as "delinquents", and such intermarried white persons as may have married recognized citizens of the Choctaw and Chickasaw Nations in accordance with the tribal laws, customs and usages on or before the date of the passage of this Act by Congress, and such

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infant children as may have been born to recognized and enrolled citizens on or before the date of the final ratification of this agreement; but the application of no person whatsoever for enrollment shall be received after the expiration of the said ninety days."

For your information there is enclosed you herewith a circular giving the list of the appointments of the Commission in the Choctaw and Chickasaw Nations.

Respectfully,

Commissioner in Charge.

Enc. circular

Choctaw 5109

Muskogee, Indian Territory, April 4, 1903.

Ephraim E. Shockley,

Sulphur, Indian Territory,

Dear Sir:

Receipt is hereby acknowledged of your letter of March 30, asking the status of the case of yourself and your family.

In reply to your letter you are advised that it appears from our records that Ephraim E. Shockley, Ava Shockley, Mattie Shockley, Leverett Shockley and Elva May Shockley, were admitted to citizenship in the Choctaw Nation by a judgment of the United States Court for the Central District of the Indian Territory.

On December 17, 1902, the Choctaw-Chickasaw Citizenship Court, created under the act of Congress of July 1, 1902, which was ratified by the Choctaw and Chickasaw Nations on September 25, 1902, vacated and set aside all judgments of the United States Courts for the Indian Territory, admitting persons to citizenship in the Choctaw and Chickasaw Nations.

Respectfully,

Commissioner in Charge.

Choctaw-5109

Muskogee, Indian Territory, January 11, 1904.

E. E. Shockley,

Sulphur, Indian Territory.

Dear Sir:

Receipt is hereby acknowledged of your letter of January 1, 1904, in which you state that you claim certain land described therein in allotment, and that you have been informed that the same has been filed on by another citizen. You wish to know whether you will be permitted to make application for said land pending the determination of your right to enrollment.

In reply to your letter you are informed that if you desire to select the land referred to as a portion of your allotment, in the event your enrollment is finally approved, you will be permitted to make application therefor upon your personal appearance at the Chickasaw Land Office, and will also be allowed to institute contest proceedings therefor.

Respectfully,

Commissioner in Charge.

Choctaw 5109

Muskogee, Indian Territory, April 22, 1904.

E. R. Shookley,

Sulphur, Indian Territory.

Dear Sir:

Your letter of April, 1904, addressed to the Secretary of the Interior has been by him referred to the Commission for consideration and appropriate action. You ask therein as to whether you are entitled to secure an allotment of land in the Choctaw Nation.

In reply to your letter you are informed that it appears from the records of the Commission that, on March 31, 1904, the Choctaw and Chickasaw Citizenship Court rendered its decree denying your citizenship in the Choctaw Nation. Under the provisions of July 1, 1902, the Commission has, therefore, no jurisdiction to enroll you as a citizen of the Choctaw Nation or make an allotment of land to you and your family.

Respectfully,

Chairman.

Choctaw-5109.

Muskogee, Indian Territory, June 13, 1904.

E. E. Shockley,

Gilsonite, Indian Territory.

Dear Sir:

Your letter of May 21st addressed to the United States Indian Agent has been by him referred to the Commission for appropriate action. Therein you refer to your right to enrollment as a citizen of the Choctaw Nation and state that your father proved to be a one-fourth Choctaw in 1882 and that since that time you have had all the rights of citizens and drew annuity money in 1893. You further wish to be advised what steps are necessary to take in the matter of your enrollment. In reply to your letter, you are informed that on March 21, 1904 the Choctaw and Chickasaw Citizenship Court rendered a decree denying the right to citizenship of Ephriam E. Shockley, his wife, Ava Shockley, and their children, Mattie and Leverett Shockley, and on May 27, 1904 the Commission dismissed the application of their minor child, Elva May Shockley, the rights to citizenship of her parents having been denied by the Citizenship Court.

Respectfully,

Chootaw-6109.

Muskogee, Indian Territory, June 13, 1904.

E. E. Shookley,

Gilsonite, Indian Territory.

Dear Sir:

Your letter of May 21st addressed to the United States Indian Agent has been by him referred to the Commission for appropriate action. Therein you refer to your right to enrollment as a citizen of the Chootaw Nation and state that your father proved to be a one-fourth Chootaw in 1882 and that since that time you have had all the rights of citizens and drew annuity money in 1893. You further wish to be advised what steps are necessary to take in the matter of your enrollment. In reply to your letter, you are informed that on March 21, 1904 the Chootaw and Chickasaw Citizenship Court rendered a decree denying the right to citizenship of Ephriam E. Shookley, his wife, Ava Shookley, and their children, Mattie and Leverett Shookley, and on May 27, 1904 the Commission dismissed the application of their minor child, Elva May Shookley, the rights to citizenship of her parents having been denied by the Citizenship Court.

Respectfully,

Chairman.

7-5109

Muskogee, Indian Territory, January 5, 1906.

Ephraim E. Shookley,
Gilsomite, Indian Territory.

Dear Sir:

Receipt is hereby acknowledged of your letter of December 22, 1905, giving the names of your children and asking if they have been approved.

In reply to your letter you are advised that it appears from the records of this office that you are a co-relative of Lula West and for your information there is inclosed herewith copy of circular giving full information as to procedure in cases coming within the rulings of the Department in the Choctaw enrollment case of Lula West.

Respectfully,

Commissioner.

Muskogee, Indian Territory, January 2, 1907.

The Honorable,

The Secretary of the Interior.

Sir:

March 19, 1906, the Commissioner to the Five Civilized Tribes rendered a decision in the consolidated Choctaw enrollment case of Mattie Shookley et al., granting the applications for the enrollment of nineteen persons as citizens of the Choctaw Nation under the opinion of the Assistant Attorney General in the Choctaw enrollment case of Loula West et al. and denying the applications for the enrollment of seven persons as citizens by blood of the Choctaw Nation under the Act of Congress approved June 28, 1898, and dismissing without prejudice the applications for the enrollment of two minor children for whose enrollment application has subsequently been made under the Act of Congress approved April 26, 1906, and May 4, 1906, the record in this case together with the decision of March 19, 1906 above referred to was forwarded the Department.

August 13, 1906, the Commissioner to the Five Civilized Tribes rendered a decision in the consolidated Choctaw enrollment case of William B. Brown et al. granting the applications for the enrollment of sixty-four persons as citizens of the Choctaw Nation

Secretary #2

in accordance with the opinion of the Assistant Attorney General in the Choctaw enrollment case of Loula West and denying the application for the enrollment of one person and dismissing the application for the enrollment of one person as citizens by blood of said nation and on the same date the record in this case together with the decision was forwarded to the Secretary of the Interior.

November 1, 1906, decision was rendered in the Chickasaw enrollment case of Joseph C. Moore et al., granting the applications for the enrollment as citizens of the Chickasaw Nation of forty-three persons, denying the applications for the enrollment of thirty-eight persons and dismissing the application for the enrollment of two persons and November 5, 1906, the record in this case together with the decision was forwarded the Secretary of the Interior.

The regulations for the rehearing of cases under the opinions of the Assistant Attorney General in the cases of Joe and Dillard Perry, Loula West and Mary Elizabeth Martin adopted by the Commissioner to the Five Civilized Tribes January 2, 1906 provides as follows:

"In such cases where the decision of the Commissioner is favorable to the petitioners and the decision is affirmed by the Secretary of the Interior, the names of the petitioners will then be placed upon a schedule of citizens of the Choctaw or Chickasaw Nation, which schedule must first be approved by the Secretary of the Interior before the petitioners are entitled to select and receive an allotment."

Secretary #3

Under these regulations the cases above named have been transmitted to the Department for action upon the decisions before the names of the persons included therein should be placed upon schedules. .

Section 2 of the Act of Congress approved April 26, 1906 (34 Stat. 137) provides as follows:

"That the rolls of the tribes affected by this Act shall be fully completed on or before the fourth day of March, nineteen hundred and seven, and the Secretary of the Interior shall have no jurisdiction to approve the enrollment of any person after said date."

In view of this legislation I have to request that the consideration of these cases by the Department be made special and that this office be advised at the earliest practicable date of Departmental action therein, in order that in the event the decisions are affirmed, the names of the persons enrolled thereby may be placed upon schedules to be transmitted to the Secretary of the Interior in time to receive consideration prior to March 4, 1907.

Respectfully,

Direct.

Commissioner.

DEPARTMENT OF THE INTERIOR,

WASHINGTON.

FHE.

January 9, 1907.

D.C. 2546-1907.
I.T.D. 25864-1906.
LRS

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

May 4, 1906, you transmitted the record in the matter of the application for the enrolment of Mattie Shockley, et al., as citizens of the Choctaw Nation, including your decision of March 19, 1906, granting the applications for the enrolment of John E. Shockley, Lula West, Roy West, Marie West, Corine West, Ephriam E. Shockley, Mattie Shockley, Leverett Shockley, Elva May Shockley, Charles L. Shockley, Albert Shockley, Herman Shockley, Mamie Shockley, Albert R. Shockley and Albert P. Shockley as citizens by blood, and the applications for the enrolment of Mattie Osborn, Ava Shockley, Callie Shockley and Pauline Shockley as citizens by intermarriage of the Choctaw Nation, and rejecting the applications for the enrolment of Lenora Parker, Trever M. Parker, Ludie F. Parker, William Leslie Parker and Ethel Shockley as citizens by blood, and the applications for the enrolment of Felix K. West and Elzora Shockley as citizens by intermarriage of the Choctaw Nation, also dismissing the applications for the enrolment of Plasse Shockley and Herbert E. Shockley as citizens by blood of the Choctaw Nation.

Reporting December 22, 1906 (Land 42796-06), the Indian Office recommends that your decision be approved, except as to the dismissal of the applications of Flassie Shockley and Herbert H. Shockley, for enrolment as citizens by blood of the Choctaw Nation. A copy of its letter is inclosed.

The Department concurs in the recommendation of the Indian Office, and your decision is hereby affirmed, except as to the dismissal of the applications of Flassie Shockley and Herbert H. Shockley. As to them, you will proceed with the adjudication of their claims under legislation enacted subsequent to your decision of March 19, 1906.

The papers in the case have been returned to the Indian Office for its files.

Respectfully,

Thos Ryan

First Assistant Secretary.

Through the Commissioner
of Indian Affairs.

1 ins. and 5 for Ind. Of.

Refer in reply to the following:

(C O P Y) 4

DEPARTMENT OF THE INTERIOR,

OFFICE OF INDIAN AFFAIRS,

WASHINGTON.

Land.
40199-1906.
42796- "

December 22, 1906.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to transmit herewith a communication from the Commissioner to the Five Civilized Tribes, dated May 4, 1906, enclosing the record in the matter of the application for the enrollment of Mattie Shockley et al., as citizens of the Choctaw Nation, including the Commissioner's decision; also a letter dated May 14, 1906, enclosing "A bill of exceptions," filed by Thomas Herman, the attorney for the applicants, which shows service on Mansfield, McMurray & Cornish, attorneys for the Choctaw and Chickasaw Nations, on May 7, 1906.

The consolidated case of Mattie Shockley et al., is made up of a number of distinct cases, but all the parties thereto are members of the Shockley family. These cases are as follows:

Mattie Shockley, et al.	7-5238
Lula West et al.,	7-5191
Ephraim E. Shockley et al.,	7-5109
Charles L. Shockley et al.,	7-5186
Lenora Parker et al.,	7-5190
Albert R. Shockley et al.,	7-5189
Pauline Shockley et al.,	7-5-51

There are twenty-eight persons included in these cases, of whom nineteen have been enrolled and nine have been denied enrollment by the Commissioner in his decision of March 19, 1906. Two of these rejected applicants, Fannie Shockley and Herbert E. Shockley, had their applications dismissed without prejudice. Fannie Shockley was born April 6, 1903, and is the daughter of Ephraim and Ava Shockley, who are both granted enrollment by the Commissioner's decision; Herbert E. Shockley was born June 15, 1903, and is the son of Charles L. and Callie Shockley, each of whom has been enrolled by the Commissioner's decision. The Commissioner's decision dismissing the applications of these two persons was based on the fact that they were not the children of recognized and enrolled citizens by blood of the Choctaw Nation whose enrollment had been approved by the Secretary of the Interior prior to March 3, 1905, and that he was at that time without authority to receive or consider such applications. At the time the decision of the Commissioner was rendered the Act of April 26, 1906 (34 Stat. L., 137) had not been enacted. Under Section 2 of this Act these children are entitled to enrollment, provided the enrollment of their parents is approved by the Department.

This case goes back to about 1846. On account of the activity of Lula West, it has come to be known as the Lula West case. She was a Shockley before her marriage to Felix K. West, and claims to be of Choctaw blood, was born in

Tennessee, and has been a resident of the Choctaw Nation for about twenty-one years. In 1886 John Shockley, for himself, wife and children, William Shockley and his wife Elzora, Charles L. Shockley, Ephriam Shockley, Lula Shockley and Albert Shockley, filed a petition with the Choctaw National Council asking that all the rights, privileges and immunities of Choctaw citizenship be granted to them. The Council denied the petition and an appeal was thereupon taken to the United States Indian Agent at the Union Agency, who was at that time vested by law with jurisdiction to hear appeals from decisions of the Choctaw National Council. On July 15, 1889, the then United States Indian Agent, Leo E. Bennett, rendered a decision holding that the petitioner, John Shockley, was a Choctaw Indian by blood, and as such was entitled to citizenship in the Choctaw Nation. The decision of the Indian Agent was approved by the Department, January 9, 1890, and thereafter the names of the persons mentioned in the petition were borne on the roll of citizens of the Choctaw Nation.

The applicants appeared before the Commission to the Five Civilized Tribes and made application for admission to citizenship under the Act of June 10, 1896 (29 Stat. L., 321,330), and were duly admitted, from which action of the Commission the Choctaw Nation took an appeal to the United States Court for the Central District of the Indian Territory, where the judgment of the Commission was affirmed. After the approval of the Act of July 1, 1902 (32 Stat., L., 641,646-6), under which the Citizenship

Court was organized, this cause was transferred to that court, and ultimately a judgment was handed down by this court denying the enrollment. Subsequent proceedings were had before the Commission, but it considered that the judgment of the Citizenship Court was final and deprived the Commission of any further jurisdiction.

The matter was then brought to the attention of the Department by petition addressed to the President, and on December 23, 1904, was referred to the Assistant Attorney General for the Interior Department for an opinion. He rendered an opinion which was approved on February 10, 1905, holding that the Commission to the Five Civilized Tribes had jurisdiction to examine into the case and should adjudicate it upon its merits, regardless of the judgment of the Citizenship Court. The Assistant Attorney General for the Interior Department rendered an approved opinion on December 8, 1905, in which he adhered to his opinion of December 23, 1904, and the Commissioner to the Five Civilized Tribes was directed to proceed in accordance with that opinion. The Commissioner proceeded under this authority and took testimony in the case on March 5 and 6, 1906, and on March 19, 1906, rendered his decision granting the applications for the enrollment of John E. Shockley, Lula West, Roy West, Marie West, Corine West, Ephriam E. Shockley, Mattie Shockley, Leverett Shockley, Elva May Shockley, Charles L. Shockley, Albert Shockley, Hurman Shockley, Mamie Shockley, Albert E. Shockley and Albert F. Shockley, as citizens by blood, and the applications for the enrollment of Mattie

Osborn, Ava Shockley, Callie Shockley and Pauline Shockley, as citizens by intermarriage of the Choctaw Nation; refusing the applications for the enrollment of Lenora Parker, Trevor W. Parker, Lodie W. Parker, William Leslie Parker, Flossie Shockley, Herbert E. Shockley and Ethel Shockley, as citizens by blood, and Felix K. West and Elzora Shockley as citizens by intermarriage.

Those persons receiving an adverse decision have taken exceptions thereto. There is no argument presented on behalf of Felix K. West by his attorney and it is presumed that the decision as to him is considered final. Lenora Parker and Ethel Jones are half sisters, being daughters of William E. Shockley, who was admitted to citizenship by reason of the decision of the United States Indian Agent in 1889, and who died in 1893. Lenora Parker is the child of William Shockley and his first wife. She was born in Tennessee. When quite young she was abandoned by her father and never saw him again. She was living in Tennessee when her father was admitted to citizenship in the Choctaw Nation, and is not mentioned in the decision admitting her father. It appears that she removed to the Indian Territory in 1896 and has lived in the Chickasaw Nation for the past eight years. It is not shown that she has ever been recognized by the Choctaw or Chickasaw authorities nor does her name appear on any of the authentic rolls of Choctaw or Chickasaw citizens. She is married to a non-citizen white man and her four children have no rights other than through their mother.

Ethel Jones is the daughter of William Shockley by his second wife, Elzora Shockley. She was born in Arkansas

about 1892 and seems to have removed to the Indian Territory about 1900. It is contended that she can not be charged with failure to establish a residence in the Indian Territory. While it is true as a general proposition that a minor cannot choose its residence it is equally true that the residence of the parent is the residence of the minor. Arkansas was the residence of her parents at the time^{of} her birth and continued to be so until two years after she should have been a resident of the Indian Territory if she was to claim any benefits from such residence. There could be no constructive residence under the circumstances shown in this case. In the case of Minnie L. Wright et al., decided March 30, 1906 (I.T.D. 3623-1904) it was held they could not be enrolled as citizens by blood because they had not established a residence in the Choctaw Nation prior to June 28, 1896.

Elzora Shookley is the widow of William Shookley and was admitted to citizenship at the same time and by the same decision that admitted her husband. She had lived in the Indian Territory about three years at the time she was admitted and left there about the same time, whether before or immediately thereafter she was unable to say. She was born in Arkansas, married there, and except for three years lived there all her life until she returned to the Indian Territory and established a residence at Rush Springs in 1900. When she testified before the Commission in September, 1896, she was a resident of Cecil, Franklin County, Arkansas. The record does not show that she

was a resident in good faith of the Choctaw Nation on June 28, 1898; on the contrary it is conclusively shown that she was not a resident of that Nation at all until two years later.

The Office is of the opinion that following the opinion of the Assistant Attorney General for the Interior Department, the decision of the Commissioner to the Five Civilized Tribes is correct, and therefore recommends that the "bill of exceptions" be dismissed and the decision be affirmed in all things except the dismissal of the applications of Flassie Shockley and Herbert E. Shockley. In the event the Department affirms the decision of the Commissioner admitting the parents of these children, it is recommended that under Section 2 of the Act of April 26, 1906 (34 Stat. L., 137) the applicants, Flassie Shockley and Herbert E. Shockley be enrolled as citizens by blood of the Choctaw Nation.

The record is enclosed herewith.

Very respectfully,

C. F. Larrabee.
Acting Commissioner.

FILE-Y.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

J.P.
FHE.

D.C. 2882-1907.
I.T.D. 28864-1906.

January 14, 1907.

LRS

Direct.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

It is requested that you do not promulgate the decision of the Department of January 9, 1907, in the case of Mattie Sheekley et al., and that you return it at once direct to the Department. The parties in such cases are not to be enroled unless further advised by the Department.

Respectfully,

(signed) Thom. Ryan,
First Assistant Secretary.

SPECIAL.

J.P.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

THE
January 15, 1907.

D.C. 2920-1907.
I.T.D. 25868-1906.
818-1907.

LRS

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

Referring to departmental letters of January 9 and 14, 1907,
in the matter of the applications for the enrolment of Mattie
Shockley et al., as citizens by blood of the Choctaw Nation,
you are advised that by direction of the President the case will
be submitted to the Attorney-General for his opinion. You will
suspend action relative to these claimants until further advised.

Respectfully,

Thos. Ryan,
First Assistant Secretary.

RECEIVED.

J.P.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

YRM

D.C. 2920-1907.
I.T.D. 22868-1906.
818-1907.

January 18, 1907.

SIR:

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

Referring to departmental letters of January 9 and 14, 1907, in the matter of the application for the enrollment of Mattie Sheekley et al., as citizens by blood of the Choctaw Nation, you are advised that by direction of the President the case will be submitted to the Attorney-General for his opinion. You will suspend action relative to these claimants until further advised.

Respectfully,

Thos Ryan
First Assistant Secretary.

D. C. 5192-1907.

W.H.H.

L. R. S.

DEPARTMENT OF THE INTERIOR,

WASHINGTON.

January 21, 1907.

I. T. D. 512-1907.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

There are inclosed herewith, for your information, copies of letters addressed to the Attorney-General, dated January 19, 1907, transmitting the records in the cases of William C. Thompson, et al, as Choctaw citizens, Ethel Pierson, a Choctaw freedman, Richard B. Coleman, et al., Choctaw citizens, and Louis West, a Choctaw citizen by blood.

Respectfully,

Jesse B. Wilson,
Assistant Secretary.

Through the
Commissioner of Indian Affairs,
4 enclosures.

FHR.

I. T. D. 818-1907.

January 19, 1907.

The Attorney-General.

Sir:

I have the honor to transmit herewith, in accordance with the direction of the President, in a communication to me of the 12th instant, the papers in the matter of the application for the enrolment of Loula West as a citizen by blood of the Choctaw Nation, Indian Territory, upon the roll being prepared by the Commission to the Five Civilized Tribes in accordance with the act of June 28, 1898 (30 Stat., 495), and subsequent legislation, including the opinions of the Assistant Attorney-General for this Department, of February 10, 1905, and December 8, 1905, both approved by me, in view of which the Department, on January 9, 1907, authorized, in letter to the Commissioner to the Five Civilized Tribes, the enrollment of Loula West and certain other applicants in the case of Nattie Shockley, et al.

On January 15, 1907, however, in view of the order of the President, the Commissioner was directed to suspend action relative to such applicants.

A communication addressed to the members of the Select Committee on Indian Affairs, received with the President's letter, is also inclosed. See letter of even date submitting the cases of William C. Thompson, et al., Richard H. Coleman, et al., and Ethel Pierson.

-2-

There is also transmitted a copy of the Eleventh Annual Report of the Commission to the Five Civilized Tribes, in which, commencing on page 57, may be found copies of the laws passed up to the date of the report, affecting the work of the Commission .

Should you desire copies of any of the opinions of the Assistant Attorney-General or letters of the Department referred to in the opinions inclosed, I will be pleased to furnish them.

A schedule of the papers inclosed, except said annual report of the Commission to the Five Civilized Tribes is attached. It is respectfully requested that the papers mentioned in the schedule be returned to the Department in due time.

Respectfully,

E. A. Hitchcock,

Secretary.

32 inclosures.

TR.

Schedule.

- A. The letter from the President, of Jan. 12, 1907, with inclosures..... 818-1907.
- B. Letter from Leula West to the President, of December 16, 1904..... 10323-1904.
- C. Opinion of the Assistant Attorney-General of February 10, 1905..... 1484-1905.
- D. Indian Office letter of May 27, 1905..... 6380-1905.
- E. Letter from the attorneys for the Cheetaw and Chickasaw Nations, of April 8, 1905..... 7683-1905.
- F. Letter from the attorneys for the Cheetaw and Chickasaw nations of April 8, 1905..... 7679-1905.
- G. Opinion of Assistant Attorney-General of December 8, 1905..... 16856-1905.
- H. Letter from Lula West of December 8, 1906..... 15159-1906.
- I. Indian Office letter of December 22, 1906..... 25864-1906.
- K. Indian Office letter of January 15, 1907 with inclosures 1016-1907.
- L. Indian Office letter of January 15, 1907 with inclosures 1034-1907.

D. C. 10916-1907.

JP.

DEPARTMENT OF THE INTERIOR,

L.R.

WASHINGTON.

February 23, 1907.

I. T. D. 4864-1907.

L. R. N.

Direct.

Commissioner to the Five Civilized Tribes,
Waskagee, Indian Territory.

Sir:

Confirming telegram of this date, as follows--

"You are directed to inspect the partial rolls of citizens of the Choctaw and Chickasaw nations to determine what persons have been enrolled thereon contrary to the views expressed by the Attorney-General in opinion of February 19, copy sent you this day, and whose names should be stricken therefrom. You will furnish the Department a list of such names with roll numbers, and give such information that it may readily determine whether such names should be stricken from the rolls. This information should reach the Department before March first. Take like action relative to the rolls of the Cherokee and Creek nations.

It was held in such opinion, among other things, that the decisions of the Commission under act of 1898, not appealed from, were final, and that the decisions of the Choctaw and Chickasaw Citizenship Court were final, whether claimant's name was on tribal rolls or not.

Decisions of the Department, based upon opinions of the Assistant Attorney-General, in favor of claimants in the cases of Loula West et al., William C. Thompson et al., and Richard B. Coleman et al. are rescinded in letter to you of this day. The decision of the Department in the Ethel Pierson case, minor child of a Choctaw freedman, is sustained in the opinion of the Attorney-General.

E. A. Hitchcock,
Secretary."

a copy of the opinion of the Attorney-General referred to therein is inclosed, and you are directed to strike the names of the claimants in the Choctaw enrollment cases of Loula West et al., if enrolled; William C. Thompson et al., and Richard N. Coleman et al. from the partial roll of citizens of the Choctaw Nation, as of this date, referring to this letter as your authority. Advise the Department of your action, giving roll numbers, etc., in order that the parts of the rolls in the possession of the Department and the Indian Office may be made to show the cancellation.

In accordance with said opinion, the enrollment of Cyrus H. Kingsbury and Lucy H. Littlepage will be allowed to stand. The patent in favor of Cyrus H. Kingsbury received with your letter of March 10, 1896, has been approved and is inclosed.

As soon as practicable you will advise the Department relative to the status of any land, whether patented, etc., that may have been selected by any person hereby stricken from the rolls or to be stricken from such rolls, and make such recommendations as to the course that should be pursued concerning such tracts as you deem proper.

A carbon copy hereof has been sent to the Indian Office.

Respectfully,

H. A. Hitchcock,

Secretary.

2 inclosures.

C O P Y.

DEPARTMENT OF JUSTICE,
WASHINGTON.

February 19, 1907.

The Secretary of the Interior.

Sir:

I have the honor to communicate to you my opinion in certain Choctaw Indian citizenship cases, the first two submitted by your letter of May 29, 1906, and the others by the direction of the President under date of January 19, 1907.

1. The first case is that of Myrtle Randolph and her brother W. J. Thompson, in regard to which you say:

Myrtle Randolph and W. J. Thompson are children of Giles Thompson, white, intermarried in the Choctaw Nation in Mississippi prior to the treaty of September 27, 1830, (7 Stat., 333), and was one of the parties named by supplementary article II (ib. 340,) as entitled to a section and a half, reserved to him from the ceded lands, to be so selected as "to include their present residence and improvement." His first and second wives were Choctaws. His name appears on page 64, volume 7, American State Papers (Public Lands), as a beneficiary of Article XII of the treaty of September 27, 1830, and on page 26, volume 1 of the record in suit of the Choctaw Nation v. United States, Court of Claims. He was registered under the treaty as citizen of the Choctaw Nation, Muskulatubbee's District, and with his family was transported under the treaty as Choctaws, at expense of the United States, from Mississippi to the Choctaw Nation, west, prior to October 24, 1833, when he petitioned the President, from Doakesville, near the Red River, in the southern part of the Choctaw Nation, to approve sale of his Mississippi lands to James Gay, of Mississippi, and for issue of patent therefor (copy A enclosed). In the Choctaw Nation, west, in Indian Territory, in 1863, in accordance to Choctaw law, he married a white woman, citizen of the United States, of whom the applicants were born. He was living October 19, 1868, and was paid by the Choctaw Nation for

beever furnished June, 1865. (Copy of act of Council of October 19, 1865, is enclosed, B). He continued to live in the Nation, and was recognized as a citizen, until his death, aged seventy-six years, and his estate was administered in the Choctaw courts as that of an Indian and within their jurisdiction. The applicants--his children--were born in the Choctaw Nation, were admitted to and attended the Choctaw schools as Choctaws, and in all respects enjoyed and were accorded the privileges of native born Choctaws. The applicants were enrolled by Choctaw Committee on Citizenship in 1892, as Choctaw citizens. The Department is not yet advised whether they are borne on any other of the Choctaw rolls. They settled and improved tribal lands, as the father before had done in Mississippi, as Choctaws, erected homes, and were never ousted or objected to or regarded as intruders.

September 8, 1896, these applicants and others applied to the Commission to the Five Civilized Tribes for enrollment under the act of June 10, 1896 (29 Stat., 321-339) and December 7, 1896, were denied. Applicants appealed to the United States Court, Southern District, Indian Territory which, January 18, 1898, reversed the commission, and admitted the applicants. From this judgement thenation appealed and the judgment was affirmed (reported as *Stephens v. Cherokee Nation and Choctaw Nation v. Robinson*, 174 U.S., 445, foot-note page 469, case No. 587; same v. *Randolph et al*). Subsequently, under the act of July 1, 1902 (32 Stat., 641, 644-9), the matter was brought by appeal of the nations to the Choctaw-Chickasaw Citizenship Court, which, November 29, 1904, denied the application--copy of opinion wherein and in *Wall v. Choctaw Nation et al*, and in *H. H. Bounds v. Choctaw and Chickasaw Nations*, wherein both were founded, are enclosed (C. D. E.).

The validity and finality of the Citizenship Court are therefore a vital feature of this case. In regard to its judgement you say in your letter:

Bearing upon the validity of this judgment, your attention is called to the fact that the act of June 10, 1896, gave no power to the Commission to the Five Civilized Tribes to purge the tribal rolls, which were by the act confirmed. Power to purge the rolls was first conferred on the Commission by the act of June 7, 1897 (30 Stat., 84), and further by section 21, act of June 25, 1898 (30 Stat., 498, 508). Therefore this Department holds that no jurisdiction was given the Commission, or to the courts on appeal therefrom, to exclude persons having tribal recognition and borne on the tribal rolls, but that such persons, notwithstanding prior adverse action by the Commission, or the courts, are entitled

The Secretary of the Interior—

to enrollment under the act of 1896 and supplementary acts, unless their inscription on the tribal rolls was procured by fraud or was without authority of law. Such has been the rule of this Department since decision in the case of Wiley Adams, May 21, 1903, discussed and concurred in by the Assistant Attorney-General, Interior Department (Opinions of March 24, 1906), in cases of Benjamin J. Vaughn and Mary Elizabeth Martin. In Vaughn's case counsel for the nation acceded to it as the proper rule.

To determine the validity and the finality of the judgment of the Citizenship Court, as well as other questions arising in these cases, it is necessary to consider carefully the entire legislation of the Congress on this subject.

The act of June 10, 1896 (29 Stat. 321, 339), directed the Commission to the Five Civilized Tribes in the Indian Territory to continue the exercise of the authority theretofore conferred upon them to negotiate with such tribes for the extinguishment of the tribal title to their lands, by the cession of the same or a part thereof to the United States, or their allotment in severalty to the members of such tribes, with a view to the ultimate creation of a State or States embracing such lands.

That act also provided:

That said commission is further authorized and directed to proceed at once to hear and determine the application of all persons who may apply to them for citizenship in any of said nations, and after such hearing they shall determine the right of such applicant to be so admitted and enrolled: **Provided, however,** That such application shall be made to such Commissioners within three months after the passage of this Act. The said Commission shall decide all such applications within ninety days after the same shall be made. That in determining all such applications said commission shall respect all laws of the several nations or tribes, not inconsistent with the laws of the United States, and all treaties with either of said nations or tribes, and shall

give due force and effect to the rolls, usages, and customs of each of said nations or tribes. And provided, further, That the rolls of citizenship of the several tribes as now existing are hereby confirmed, and any person who shall claim to be entitled to be added to said rolls as a citizen of either of said tribes and whose right thereto has either been denied or not acted upon, or any citizen who may within three months from and after the passage of this Act desire such citizenship, may apply to the legally constituted court or committee designated by the several tribes for such citizenship, and such court or committee shall determine such application within thirty days from the date thereof.

In the performance of such duties said commission shall have power and authority to administer oaths, to issue process for and compel the attendance of witnesses, and to send for persons and papers, and all depositions and affidavits and other evidence in any form whatsoever heretofore taken where the witnesses giving said testimony are dead or now residing beyond the limits of said Territory, and to use every fair and reasonable means within their reach for the purpose of determining the rights of persons claiming such citizenship, or to protect any of said nations from fraud or wrong, and the rolls so prepared by them shall be hereafter held and considered to be the true and correct rolls of persons entitled to the rights of citizenship in said several tribes: Provided, That if the tribe, or any person, be aggrieved with the decision of the tribal authorities or the commission provided for in this Act, it or he may appeal from such decision to the United States district court: Provided, however, That the appeal shall be taken within sixty days, and the judgment of the court shall be final.

That the said commission, after the expiration of six months, shall cause a complete roll of citizenship of each of said nations to be made up from their records, and add thereto the names of citizens whose right may be conferred under this Act, and said rolls shall be, and are hereby, made rolls of citizenship of said nations or tribes, subject, however, to the determination of the United States courts, as provided herein.

The commission is hereby required to file the lists of members as they finally approve them with the Commissioner of Indian Affairs to remain there for use as the final judgment of the duly constituted authorities.

The act of June 7, 1897 (30 Stat. 62, 84) contained this provisions:

That said commission shall continue to exercise all authority heretofore conferred on it by law to negotiate with the Five Tribes, and any agreement made by it with any

one of said Tribes, when ratified, shall operate to suspend any provisions of this Act if in conflict therewith as to said nation. Provided, That the words "rolls of citizenship", as used in the act of June tenth, eighteen hundred and ninety-six, making appropriations for current and contingent expenses of the Indian Department and fulfilling treaty stipulations with various Indian tribes for the fiscal year ending June thirtieth, eighteen hundred and ninety-seven, shall be construed to mean the last authenticated rolls of each tribe which have been approved by the council of the nation, and the descendants of those appearing on such rolls, and such additional names and their descendants as have been subsequently added, either by the council of such nation, the duly authorized Courts thereof, or the commission under the act of June tenth, eighteen hundred and ninety-six. And all the other names appearing upon such rolls shall be open to investigation by such commission for a period of six months after the passage of this Act. And any name appearing on such rolls and not confirmed by the Act of June tenth, eighteen hundred and ninety-six, as herein construed, may be stricken therefrom by such commission where the party affected shall have ten days previous notice that said commission will investigate and determine the right of such party to remain upon such roll as a citizen of such nation: Provided, also, That any one whose name shall be stricken from the roll by such commission shall have the right of appeal, as provided in the Act of June tenth, eighteen hundred and ninety-six.

The act of June 28, 1898 (30 Stat. 495, 502-3), provided:

Sec. 21. That in making rolls of citizenship of the several tribes as required by law, the Commission to the Five Civilized Tribes is authorized and directed to take the roll of Cherokee citizens of eighteen hundred and eighty (not including freedmen) as the only roll intended to be confirmed by this and preceding Acts of Congress, and to enroll all persons now living whose names are found on said roll, and all descendants born since the date of said roll to persons whose names are found thereon; and all persons who have been enrolled by the tribal authorities who have heretofore made permanent settlement in the Cherokee Nation whose parents, by reason of their Cherokee blood, have been lawfully admitted to citizenship by the tribal authorities, and who were miners when their parents were so admitted; and they shall investigate the right of all other persons whose names are found on any other rolls and omit all such as may have been placed thereon by fraud or without authority of law, enrolling only such as may have lawful right thereto, and their descendants born since such rolls were made, with such inter-married white persons as may be entitled to citizenship under Cherokee laws.

X X X X X X X

Said commission is authorized and directed to make correct rolls of the citizens by blood of all the other tribes, eliminating from the tribal rolls such names as may have been placed thereon by fraud or without authority of law, enrolling such only as may have lawful right thereto, and their descendants born since such rolls were made, with such intermarried white persons as may be entitled to Choctaw and Chickasaw citizenship under the treaties and the laws of said tribes.

X X X X X
The rolls so made, when approved by the Secretary of the Interior, shall be final, and the persons whose names are found thereon, with their descendants thereafter born to them, with such persons as may intermarry according to tribal laws, shall alone constitute the several tribes which they represent.

The act of May 31, 1900 (31 Stat. 221,236), provided:

That said commission shall continue to exercise all authority heretofore conferred upon it by law, but it shall not receive, consider, or make any record of any application of any person for enrollment as a member of any tribe in the Indian Territory who has not been a recognized citizen thereof, and duly and lawfully enrolled or admitted as such, and its refusal of such application shall be final when approved by the Secretary of the Interior.

The act of March 3, 1901 (31 Stat. 1058,1077), contained this provisions

The rolls made by the Commission to the Five Civilized Tribes, when approved by the Secretary of the Interior, shall be final, and the persons whose names are found thereon shall alone constitute the several tribes which they represent; and the Secretary of the Interior is authorized and directed to fix a time by agreement with said tribes or either of them for closing said rolls, but upon failure or refusal of said tribes or any of them to agree thereto, then the Secretary of the Interior shall fix a time for closing said rolls, after which no name shall be added thereto.

The act of July 1, 1902 (32 Stat. 641) ratified an agreement made by the Commission to the Five Civilized Tribes with the Commission representing the Choctaw and Chickasaw Tribes. This agreement was subsequently ratified by these two nations as required therein. In regard to rolls of citizenship it provided:

27. The rolls of the Choctaw and Chickasaw citizens and Choctaw and Chickasaw freedmen shall be made by the Commission to the Five Civilized Tribes, in strict compliance with the act of Congress approved June 28, 1898 (30 Stat., 495), and the act of Congress approved May 31, 1900 (31 Stat., 221), except as herein otherwise provided: Provided, That no person claiming right to enrollment and allotment and distribution of tribal property, by virtue of a judgment of the United States court in the Indian Territory under the act of June 10, 1896 (29 Stat., 321), and which right is contested by legal proceedings instituted under the provisions of this agreement, shall be enrolled or receive allotment of lands or distribution of tribal property until his right thereto has been finally determined.

28. The names of all persons living on the date of the final ratification of this agreement entitled to be enrolled as provided in section 27 hereof shall be placed upon the rolls made by said Commission; and no child born thereafter to a citizen or freedman and no person intermarried thereafter to a citizen shall be entitled to enrollment or to participate in the distribution of the tribal property of the Choctaws and Chickasaws.

29. No person whose name appears upon the rolls made by the Commission to the Five Civilized Tribes as a citizen or freedman of any other tribe shall be enrolled as a citizen or freedman of the Choctaw or Chickasaw nations.

30. For the purpose of expediting the enrollment of the Choctaw and Chickasaw citizens and Choctaw and Chickasaw freedmen, the said Commission shall, from time to time, and as early as practicable, forward to the Secretary of the Interior lists upon which shall be placed the names of those persons found by the Commission to be entitled to enrollment. The lists thus prepared, when approved by the Secretary of the Interior, shall constitute a part and parcel of the final roll of citizens of the Choctaw and Chickasaw tribes and of Choctaw and Chickasaw freedmen, upon which allotment of land and distribution of other tribal property shall be made as herein provided. Lists shall be made up and forwarded when contests of whatever character shall have been determined, and when there shall have been submitted to and approved by the Secretary of the Interior lists embracing names of all those lawfully entitled to enrollment, the rolls shall be deemed complete. The rolls so prepared shall be made in quintuplicate, one to be deposited with the Secretary of the Interior, one with the Commissioner of Indian Affairs, one with the principal chief of the Choctaw Nation, one with the governor of the Chickasaw Nation, and one to remain with the Commission to the Five Civilized Tribes.

31. It being claimed and insisted by the Choctaw and Chickasaw nations that the United States courts in the Indian Territory acting under the Act of Congress approved June 10, 1896, have admitted persons to citizenship or to enrollment as such citizens in the Choctaw and Chickasaw nations, respectively, without notice of the proceedings in such courts being given to each of said nations; and it being insisted by said nations that, in such proceedings, notice to each of said nations was indispensable, and it being claimed and insisted by said nations that the proceedings in the United States courts in the Indian Territory, under the said Act of June 10, 1896, should have been confined to a review of the action of the Commission to the Five Civilized Tribes, upon the papers and evidence submitted to such commission, and should not have extended to a trial de novo of the question of citizenship; and it being desirable to finally determine these questions the two nations, jointly, or either of said nations acting separately and making the other a party defendant, may, within ninety days after this agreement becomes effect, by a bill in equity filed in the Choctaw and Chickasaw citizenship court hereinafter named, seek the annulment and vacation of all such decisions by said courts. Ten persons so admitted to citizenship or enrollment by said courts, with notice to one but not to both of said nations, shall be made defendants to said suit as representatives of the entire class of persons similarly situated, the number of such persons being too numerous to require all of them to be made individual parties to the suit; but any person so situated may, upon his application, be made a party defendant to the suit. Notice of the institution of said suit shall be personally served upon the chief executive of the defendant nation, if either nation be made a party defendant as aforesaid, and upon each of said ten representative defendants, and shall also be published for a period of four weeks in at least two weekly newspapers having general circulation in the Choctaw and Chickasaw nations. Such notice shall set forth the nature and prayer of the bill, with the time for answering the same, which shall not be less than thirty days after the last publication. Said suit shall be determined at the earliest practicable time, shall be confined to a final determination of the questions of law here named, and shall be without prejudice to the determination of any charge or claim that the admission of such persons to citizenship or enrollment by said United States courts in the Indian Territory was wrongfully obtained as provided in the next section. In the event said citizenship judgments or decisions are annulled or vacated in the test suit hereinbefore authorized, because of either or both of the irregularities claimed and insisted upon by said nations as aforesaid, then the files, papers and proceedings in any citizenship case in which the judgment or decision is so annulled or vacated,

shall, upon written application therefor, made within ninety days thereafter by any party thereto, who is thus deprived of a favorable judgment upon his claimed citizenship, be transferred and certified to said citizenship court by the court having custody and control of such files, papers and proceedings, and upon the filing in such citizenship court of the files, papers and proceedings in any such citizenship case, accompanied by due proof that notice in writing of the transfer and certification thereof has been given to the chief executive officer of each of said nations, said citizenship case shall be docketed in said citizenship court, and such further proceedings shall be had therein in that court as ought to have been had in the court to which the same was taken on appeal from the Commission to the Five Civilized Tribes, and as if no judgment or decision had been rendered therein.

32. Said citizenship court shall also have appellate jurisdiction over all judgments of the courts in Indian Territory rendered under said Act of Congress of June tenth, eighteen hundred and ninety six, admitting persons to citizenship or to enrollment as citizens in either of said nations. The right of appeal may be exercised by the said nations jointly or by either of them acting separately at any time within six months after this agreement is finally ratified. In the exercise of such appellate jurisdiction said citizenship court shall be authorized to consider, review, and revise all such judgments, both as to findings of fact and conclusions of law, and may, whenever in its judgment substantial justice will thereby be subserved, permit either party to any such appeal to take and present such further evidence as may be necessary to enable said court to determine the very right of the controversy. And said court shall have power to make all needful rules and regulations prescribing the manner of taking and conducting said appeals and of taking additional evidence therein. Such citizenship courts shall also have like appellate jurisdiction and authority over judgments rendered by such courts under the said act denying claims to citizenship or to enrollment as citizens in either of said nations. Such appeals shall be taken within the time hereinbefore specified and shall be taken, conducted and disposed of in the same manner as appeals by the said nations, save that notice of appeals by citizenship claimants shall be served upon the chief executive officer of both nations: Provided, That paragraphs thirty-one, thirty-two and thirty-three hereof shall go into effect immediately after the passage of this Act of Congress.

33. A court is hereby created to be known as the Choctaw and Chickasaw Citizenship Court, the existence of which shall terminate upon the final determination of the suits and proceedings named in the last two preceding sections, but in

no event later than the thirty-first day of December, nineteen hundred and three. Said court shall have all authority and power necessary to the hearing and determination of the suits and proceedings so committed to its jurisdiction, including the authority to issue and enforce all requisite writs, process and orders, and to prescribe rules and regulations for the transactions of its business. It shall also have all the powers of a circuit court of the United States in compelling the production of books, papers and documents, the attendance of witnesses, and in punishing contempt. Except where herein otherwise expressly provided, the pleadings, practice and proceedings in said court shall conform, as near as may be, to the pleadings, practice and proceedings in equity causes in the Circuit Courts of the United States. The testimony shall be taken in court or before one of the judges, so far as practicable. Each judge shall be authorized to grant, in vacation or recess, interlocutory orders and to hear and dispose of interlocutory motions not affecting the substantial merits of the case. Said court shall have a chief judge and two associate judges, a clerk, a stenographer, who shall be deputy clerk, and a bailiff. The judges shall be appointed by the President, by and with the advice and consent of the Senate, and shall each receive a compensation of five thousand dollars per annum, and his necessary and actual traveling and personal expenses while engaged in the performance of his duties. The clerk, stenographer, and bailiff shall be appointed by the judges, or a majority of them, and shall receive the following yearly compensation: Clerk, two thousand four hundred dollars; stenographer, twelve hundred dollars; bailiff, nine hundred dollars. The compensation of all these officers shall be paid by the United States in monthly installments. The moneys to pay said compensation are hereby appropriated, and there is also appropriated the sum of five thousand dollars, or so much thereof as may be necessary, to be expended under the direction of the Secretary of the Interior, to pay such contingent expenses of said court and its officers as to such Secretary may seem proper. Said court shall have a seal, shall sit at such place or places in the Choctaw and Chickasaw nations as the judges may designate, and shall hold public sessions beginning the first Monday in each month, so far as may be practicable or necessary. Each judge and the clerk and deputy clerk shall be authorized to administer oaths. All writs and process issued by said court shall be served by the United States marshal for the district in which the service is to be had. The fees for serving process and the fees of witnesses shall be paid by the party at whose instance such process is issued or such witnesses are subpoenaed, and the rate or amount of such fees shall be the same as is allowed in civil causes in the circuit court of the United States for the western district of Arkansas. No fees shall be charged by the clerk or other officers of

said court. The clerk of the United States court in Indian Territory, having custody and control of the files, papers, and proceedings in the original citizenship cases, shall receive a fee of two dollars and fifty cents for transferring and certifying to the citizenship court the files, papers, and proceedings in each case, without regard to the number of persons whose citizenship is involved therein, and said fee shall be paid by the person applying for such transfer and certification. The judgment of the citizenship court in any or all of the suits or proceedings so committed to its jurisdiction shall be final. All expenses necessary to the proper conduct, on behalf of the nations, of the suits and proceedings provided for in this and the two preceding sections shall be incurred under the direction of the executives of the two nations, and the Secretary of the Interior is hereby authorized, upon certificate of said executives, to pay such expenses as in his judgment are reasonable and necessary out of any of the joint funds of said nations in the Treasury of the United States.

It appears that the agreement in these paragraphs provides for the establishment of the Choctaw and Chickasaw Citizenship Court, and gives it jurisdiction of a test suit to annul and vacate the decisions of the United States courts in the Indian Territory admitting persons to citizenship and enrollment as citizens of the Choctaw and Chickasaw nations, respectively, on the ground of want of notice to both of said nations and because the United States courts tried such cases in error, with a right in the event such judgments should be annulled because of either or both of the irregularities mentioned, on the part of any party thus deprived of a favorable judgment to remove his case to the Citizenship Court, where such further proceedings were to be had therein "as ought to have been had in the court to which the same was taken on appeal from the Commission to the Five Civilized Tribes and if no judgment or decision had been rendered therein; and also "appellate jurisdiction over all judgments of the courts in Indian Territory, rendered under said act of Congress of June

tenth, eighteen hundred and ninety-six, admitting persons to citizenship or to enrollment in either of said nations." In the exercise of such appellate jurisdiction the citizenship court was "authorized to consider, review, and revise all such judgments, both as to findings of fact and conclusions of law, and may, whenever in its judgment substantial justice will thereby be subserved, permit either party to any such appeal to take and present such further evidence as may be necessary to enable said court to determine the very right of the controversy."

It will be noted that the agreement further provides (paragraph 33) that "the judgment of the citizenship court in any or all of the suits or proceedings so committed to its jurisdiction shall be final."

The agreement also contained this provision:

34. During the ninety days first following the date of the final ratification of this agreement, the Commission to the Five Civilized Tribes may receive applications for enrollment only of persons whose names are on the tribal rolls but who have not heretofore been enrolled by said Commission, commonly known as "delinquents", and such intermarried white persons as may have married recognized citizens of the Choctaw and Chickasaw Nations in accordance with the tribal laws, customs and usages on or before the date of the passage of this Act of Congress, and such infant children as may have been born to recognized and enrolled citizens on or before the date of the final ratification of this agreement; but the application of no person whomsoever for enrollment shall be received after the expiration of the said ninety days: Provided, That nothing in this section shall apply to any person or persons making application for enrollment as Mississippi Choctaws, for whom provision has herein otherwise been made.

By the act of April 21, 1904 (33 Stat. 189,204), it was provided that the Commission to the Five Civilized Tribes should conclude its work and terminate on or before July 1, 1905, and cease to exist on that date, the powers theretofore conferred

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upon it being continued.

By the act of March 3, 1906 (33 Stat., 1046, 1060), it was provided "that the work of completing the unfinished business, if any, of the Commission to the Five Civilized Tribes shall devolve upon the Secretary of the Interior, and that all the powers heretofore granted to the said Commission to the Five Civilized Tribes are hereby conferred upon the said Secretary on and after the first of July, nineteen hundred and five."

By the Act of April 26, 1906 (34 Stat., 137), it was provided:

That after the approval of this act no person shall be enrolled as a citizen or freedman of the Choctaw, Chickasaw, Cherokee, Creek, or Seminole tribes of Indians in the Indian Territory, except as herein otherwise provided, unless application for enrollment was made prior to December first, nineteen hundred and five, and the records in charge of the Commissioner to the Five Civilized Tribes shall be conclusive as evidence as to the fact of such application; and no motion to reopen or reconsider any citizenship case, in any of said tribes, shall be entertained unless filed with the Commissioner to the Five Civilized Tribes within sixty days after the date of the order or decision sought to be reconsidered except as to decisions made prior to the passage of this act, in which cases such motion shall be made within sixty days after the passage of this act. x x x x x x

By that act the rolls of citizenship of the several tribes were required to be completed by March 4, 1907.

After very carefully considering this legislation, in the light of the circumstances under which it was enacted, I am constrained to the conclusion that the Citizenship Court had jurisdiction of the cases now under consideration, and that its judgment therein is final.

By the act of June 10, 1896, the Commission to the Five Civilized Tribes was "authorized and directed to proceed at once

to hear and determine the application of all persons who may apply to them for citizenship in any of said nations." It is true that this act also confirmed the then existing rolls of the several tribes, but the question whether an applicant was, as matter of fact, already duly enrolled upon one of the rolls so confirmed constituted, in my opinion, an issue upon which the Commission was authorized and required to pass the applicant may be fairly held to have waived by his application the conclusiveness of the confirmation of the rolls in his case.

Independently, of any such waiver, I do not see how the proposition that the Commission did not have jurisdiction of the case of a person whose name was upon a tribal roll can be maintained, in the face of the provision of the act of June 10, 1896, that "in determining all such applications said Commission shall X X X X give due force and effect to the rolls, usages and customs of each of said nations or tribes." I think that act left it to the Commission to determine whether or not the applicant was upon a roll which was confirmed, and evidently it did not so hold in these cases.

It is unnecessary, however, to determine what might have been the effect of an adverse judgment in the case of an applicant whose name was upon a roll so confirmed, for such confirmation was certainly and very materially modified by the act of June 7, 1897, and apparently altogether withdrawn by the act of June 23, 1898. The act of June 7, 1897, provided that the words "rolls of citizenship" as used in the act of June 10, 1896, should be con-

strued to mean the "last authenticated rolls of each tribe which have been approved by the council of the nation." I am informed that there never was any such an authenticated roll of the Choctaw Tribe, either at the time of the passage of the act of June 10, 1896, or subsequently thereto. Moreover, by the act of June 25, 1898, it was provided that in making rolls of citizenship of the several tribes, the Commission should take the Cherokee roll of 1880 as the only roll intended to be confirmed by that and preceding acts of Congress: it seems to be clear from the further provisions of the Act that the Congress did not here refer to the Cherokee rolls only but had in mind those of all the Tribes. To my mind, however, the decisive consideration is that Congress, knowing there were certain cases of contested citizenship in the Choctaw and Chickasaw Nations, referred those cases, under carefully defined conditions, to the Citizenship Court and made the determination of that Court in those cases final. This provision of law repealed, as to cases in this category, any inconsistent provisions (if any there were) in the act of 1896 or any other prior act. These cases were unquestionably within the terms of the law; the claimants had been admitted to citizenship by decisions of the United States courts, and it seems clear that, under the agreement with the Choctaw and Chickasaw Nations ratified by the act of July 2, 1902, it was intended that the Citizenship Court should have a revisory jurisdiction of judgments of the United States courts in the Indian Territory in citizenship cases, irrespective of the grounds on which those suits had been enter-

tained by the said courts. That agreement was made after the confirmation given to the tribal rolls had been qualified if not withdrawn, and, we must presume, with a knowledge of the fact that the Commission, under the act of June 10, 1896, had exercised jurisdiction in the case of persons whose names appeared upon some of the rolls of the tribes. Its action seems to show that Congress did not intend to confirm any roll of the Cheotaw and Chickasaw tribes, but, however, that may be when, with a knowledge of all that had gone before, it created the Citizenship Court, this was done, in my opinion, with the evident purpose of giving it jurisdiction of all citizenship cases which had been decided by the United States courts for the Indian Territory on appeal from the judgments of the Commission. As neither Congress nor the Nations made any distinction in the act and agreement referred to as to the cases of persons whose names were on a tribal roll which might have been confirmed by the act of June 10, 1896, if Congress had not decided otherwise, I do not think any other authority can make this distinction. Indeed, as I have suggested, the applicants themselves, having voluntarily submitted to the jurisdiction of the Commission, might be fairly held estopped to now deny it.

I understand that it is not contended, nor do I think it could be successfully maintained, that any authority to review the judgments of the Citizenship Court was intended to be conferred upon you by Congress when it made the rolls, as finally compiled, subject to your approval (see paragraph 30 of the agreement rati-

fied by the act of July 1, 1902). Neither do I think that the provision in the act of April 26, 1906, above quoted, as to enrolling persons and entertaining motions to reopen or reconsider citizenship cases, was intended to recognize or confer any such authority the purpose of that provision being simply to limit the time in which the authority previously conferred might be exercised. To hold thus would be to treat the later act as a repeal of so much of the former as expressly declared the judgments of the Citizenship Court to be final, which seems to be untenable.

This disposes of the cases of Myrtle Randolph and her brother W. J. Thompson: whatever their intrinsic merits, these claims have been finally decided adversely to the claimants by the judgment of the Citizenship Court.

2. The second case is that of Cyrus H. Kingsbury and Lucy E. Littlepage, in regard to whom you say:

Cyrus H. Kingsbury and Lucy E. Littlepage are children of John Parker-Kingsbury and wife, Hannah Mariah, white, affiliated by act of the Choctaw Council of November 18, 1854, which enacted:

That all rights, privileges and immunities of Choctaw citizens are hereby granted unto John Parker-Kingsbury and to his wife Hannah Mariah, and they shall enjoy all the benefits to which the citizens of this nation may hereafter be entitled, except in the participation of any sum of money which may now be due the nation under treaty stipulations heretofore made.

Both applicants were born in the Choctaw Nation and have always resided there as its recognized citizens. Both are on the tribal Choctaw 1885 census roll, Atoka County, Nos. 819, 821. September 7, 1896, they applied to the Commission to the Five Civilized Tribes under the act of June 10, 1896, were enrolled, and no appeal was taken. Cyrus H. Kingsbury is on the 1896 Choctaw census roll. Lucy E. Littlepage is on the partial roll of Choctaw citizens by

blood, and her husband, Patrick M. Littlepage, is on the roll of intermarried citizens--both rolls approved by the Secretary of the Interior, October 21, 1904. Patent, signed and executed by the principal chief of the Choctaw nation, conveying to Cyrus M. Kingsbury allotted tribal lands as a citizen by blood, is now before the Secretary of the Interior for approval, but is not yet approved, or delivered. No objection to occupation of tribal lands was ever made against either applicant as an intruder.

Paragraph 27 of the agreement with the Choctaw and Chickasaw Nations ratified by the act of July 1, 1902, provides that the rolls of Choctaw and Chickasaw citizens shall be made by the Commission to the Five Civilized Tribes "in strict compliance" with the acts of June 26, 1896, and May 31, 1900.

Section 21 of the act of June 26, 1896, after providing that in making rolls of citizenship of the several tribes the Commission shall take the roll of Cherokee citizens of 1880 as the only roll intended to be confirmed by that and preceding acts of Congress, and providing for the enrollment of the Cherokees, authorizes and directs the Commission "to make correct rolls of the citizens by blood of all the other tribes, eliminating from the tribal rolls such names as may have been placed thereon by fraud or without authority of law, enrolling such only as may have lawful right thereto, and their descendants born since such rolls were made, with such intermarried white persons as may be entitled to Choctaw and Chickasaw citizenship under the treaties and the laws of said tribes."

It might be held that the only white persons intended to be enrolled by this act were such intermarried ones as were entitled to citizenship under the treaties and laws of the tribes,

if it were not for the reference to the tribal rolls, on which as appears from your statement as to these parties, there were undoubtedly the names of adopted whites. The only names which the Act declares shall be eliminated from the tribal rolls are those placed thereon by fraud or without authority of law, and it is not suggested that the names of these parties were open to either of these objections.

Light, it seems to me, is thrown on this matter by the act of May 31, 1900, which was also directed to be strictly complied with in making the rolls of citizenship of these tribes. That act is plainly intended to be of a restrictive nature, yet a fair construction of it would seem to authorize the enrollment of these parties. It provides that the Commission shall continue to exercise all authority theretofore conferred upon it by law, "but it shall not receive, consider, or make any record of any application of any person for enrollment as a member of any tribe in the Indian Territory who has not been a recognized citizen thereof, and duly and lawfully enrolled or admitted as such, and its refusal of any such application shall be final when approved by the Secretary of the Interior."

This act recognizes the authority of the Commission to receive, consider and record the application of a recognized citizen of any of the tribes referred to who has been duly and lawfully enrolled or admitted as such, its refusal of the application of any person not so qualified being made final when approved by the Secretary of the Interior.

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These applicants appear to possess all of these qualifications. Your letter states that they were born and have always resided in the Choctaw Nation as its recognized citizens; that their names appear upon various tribal rolls, and that they were admitted by the Commission in 1896 as citizens, no appeal from the decision of the Commission being taken by the Nation. That they were duly and lawfully enrolled by the tribal authorities would seem to result from the fact that both of their parents had been adopted into the tribe, and the failure to contest the action of the Commission in admitting them would indicate that their citizenship rights were regarded as indisputable.

You say that you would not have doubt that these applicants, born to the allegiance of the Choctaw Nation, are entitled to be enrolled, but for the report of my predecessor to the President of February 24, 1906, in the case of persons without Indian blood; and the order to you of February 27, 1906, that "in the President's judgment, without reference to the act of Congress, it is perfectly clear equity demands that the son of white parents, who has no Indian blood in his veins, even though one of these parents has been adopted into the tribe, should not be treated as an Indian."

The report of Mr. Needy and the order of the President thereon, had reference to the case of children of white persons, one of whom had previously acquired Indian citizenship by virtue of his marriage into the Choctaw tribe, but had afterwards, upon the death of his Indian spouse, married a white person. Mr. Needy

was of opinion that the right of citizenship acquired by an inter-married white was a personal right, and could not be conferred upon children by such subsequent marriage, which is also the view taken by the Citizenship Court.

I see no reason to question the soundness of that conclusion, assuming that the matter is still open for consideration. It is expressly provided by the Choctaw act of November 9, 1875, providing for the intermarriage of whites with Choctaws, that a white person intermarrying into the tribe in pursuance of the act should forfeit his rights of citizenship acquired thereunder if upon the death of his Indian spouse he married "a white man or woman, or person, as the case may be, having no rights of Choctaw citizenship by blood."

I am aware that it has been held by one of the United States Courts in the Indian Territory that this law is inconsistent with the treaty of April 26, 1866, but, with great respect for the said court, I do not ^{so}/consider it. That treaty provides:

Article 26. Every white person who, having married a Choctaw or Chickasaw, resides in the said Choctaw or Chickasaw Nation, or who has been adopted by the legislative authorities, is to be deemed a member of said nation and shall be subject to the laws of the Choctaws and Chickasaw Nations according to his domicile, and to prosecution and trial before their tribunals, and to punishment according to their laws in all respects as though he was a native Choctaw.

This article merely recognizes a pre-existing custom of the Choctaw and Chickasaw Nations as to the intermarriage and adoption of white persons, and cannot fairly be said to have been intended to prevent them from decitizenizing an intermarried person for good cause: and what better cause could there be than that

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the tie which bound him to the tribe, and because of which alone citizenship was granted, was broken?

An act of the Choctaw Nation, approved October 30, 1896, providing for the enrollment of Choctaw citizens, provided that "the Commission shall enroll as citizens all who come under any one of the following heads, and all such persons are hereby declared citizens of the Choctaw Nation:"

X X X X X

V. All white men who have married Choctaw women by blood in strict conformity to the laws of the Choctaw Nation of 1875 regulating inter-marriage, or the Chickasaw law of 1876 regulating intermarriage, and have not been divorced from same nor married any other than a Choctaw woman by blood since said marriage.

X X X X X

VIII. All white women who have married Choctaws by blood legally and have not been divorced from them nor since married any other than a Choctaw by blood, a recognized citizen and resident of the Choctaw or Chickasaw Nation.

X X X X X

That act further provided that "the Commissions are especially prohibited from enrolling as citizens any persons coming under the following heads:"

X X X X X

II. The children of any marriage where neither the father nor mother are Choctaws by blood, though one or both of said children's parents may have enjoyed intermarried rights.

III. All persons who, though they had at one time intermarried rights, afterwards married a person not a Choctaw by blood (being the father or mother of Choctaw children shall not save a person from this clause).

X X X X X

VI. All white persons who have been admitted to citizenship with their wife or husband by the General Council and afterward the wife or husband, Choctaw by blood, dying, the surviving party, being a white person, has intermarried with a person not a Choctaw by blood.

X X X X X

It is clear that, at least since 1878, the Choctaw Nation never intended that a White person, intermarrying into the tribe, should have power to confer citizenship upon his children by a subsequent marriage to other than a citizen by blood. The informal opinion of Attorney General Moody unquestionably had reference to cases of this character.

The case of the present applicants is quite different from that just referred to. Here both parents were adopted into the tribe. It must have been contemplated that they might have children, and if so, what was to be their citizenship if not that of their parents?

The facts in the present case answer this inquiry. Your letter states that these applicants have always been recognized as citizens of the Choctaw Nation, that their names appear on the tribal census roll of 1888, as well as upon the rolls prepared in pursuance of the Choctaw act of October 30, 1896. It seems clear, therefore, irrespective of the action of the Commission in admitting them as citizens in pursuance of the authority granted to it by the act of June 10, 1896, that they are clearly entitled to be enrolled for allotment purposes.

3. The Case of Loula (or Lula West, et al.

It appears from the papers in this case that Loula West applied to the Commission to the Five Civilized Tribes, pursuant to the Act of June 10, 1896, for admission to citizenship in the Cho-

law Nation, and was admitted as a citizen by blood; that the Cheestaw Nation appealed to the United States Court for the Central District of the Indian Territory, which affirmed the judgment of the Commission; that this judgment was annulled and vacated by the judgment of the Citizenship Court in the test case provided for by the Act of July 1, 1902 (32 Stat. 641, 647); and thereupon she removed her case to that court, which ~~was~~ denied her application.

This case is similar to that of Murtie Randolph and her brother W. J. Thompson, children of Giles Thompson, above referred to, in that it involves the question of the finality of the judgment of the Citizenship Court, it being contended that the Commission in the first instance and the Citizenship Court ultimately on appeal had no jurisdiction of the case because at the time of her application to the Commission her name was upon a tribal roll.

For the reasons heretofore stated, I think this contention is not well founded, and that the Citizenship Court had jurisdiction of such cases, and its judgments therein were final.

4. The Case of William C. Thompson et al.

In this case the record shows that Thompson applied to the Commission to the Five Civilized Tribes, pursuant to the act of June 10, 1896, for the enrollment of himself, his wife, and children with the exception of a daughter, Mary N. McNeese, who made a separate application for herself, her husband, a white man, and their children. The Commission denied Thompson's application, and also that of his daughter. No appeal was taken from these

judgments, and it is contended, on behalf of the Nation, that under the act of June 10, 1896, they were final and conclusive against the right of these parties to be enrolled.

The claimants, however, rely upon the fact that their names appear upon the tribal roll prepared in pursuance of the Ghostaw acts of September 18, and October 30, 1896.

In my judgment, the action of the Commission, under the act of June 10, 1896, not having been appealed from was final and conclusive against the right of these parties to be admitted to citizenship, and the Ghostaw nation, even if it attempted to do so, had no right thereafter to admit them. It will be observed that the act of June 10, 1896, provided that applications should be made to the Commission within three months after the passage of the act, and that the Commission should decide all such applications within ninety days after they were made; that the rolls of citizenship of the several tribes as then existing were confirmed, and "any person who shall claim to be entitled to be added to said rolls as a citizen of either of said tribes and whose right thereto has either been denied or not acted upon, or any citizen who may within three months after the passage of this Act desire such citizenship, may apply to the legally constituted court or committee designated by the several tribes for such citizenship, and such court or committee shall determine such application within thirty days from the date thereof;" and that "if the tribe, or any person be aggrieved with the decision of the tribal authorities of the Commission provided for in this Act, it or he may appeal from such decision to the United States

District Court: Provided, however, That the appeal shall be taken within sixty days, and the judgement of the court shall be final."

As I read this act, it authorized application to be made either to the Commission to the Five Civilized Tribes or the "legally constituted court of committee" of such tribes, with a right of appeal by the party aggrieved by the decision of either to the United States court. Therefore and in view also of the fact that the act contemplated contemporaneous action by the Commission and the tribal courts, I think it clear that the provision that "any person who shall claim to be entitled to be added to said rolls (the existing rolls of the tribe) as a citizen of either of said tribes whose right thereto has either been denied or not acted upon", had reference to a previous denial or failure to act of the tribal authorities, and not to the subsequent action or non-action of the Commission, the tense of the verbs-"has either been denied or not acted upon", not "shall be denied or not acted upon"-indicating that past action or non-action was referred to. Prior to the passage of this act the Commission had no jurisdiction of these citizenship matters.

When, therefore, as here, the claimant had applied to the Commission to be admitted and enrolled, and his application denied, his only remedy, under the act in question, lay in an appeal to the United States court. It is true Thompson claims to have received no notice of the denial of his application by the Commission, but that is not a valid excuse.

But aside from this question of jurisdiction in the Cheateau

Nation to admit persons to citizenship who had been denied by the Commission, it appears that the Nation never undertook to authorize the admission or enrollment of these parties, and that, in any aspect of the case, they were enrolled without authority of law and their names should, in pursuance of the mandate in the act of Congress of June 20, 1896, be eliminated from the tribal rolls.

The Chectaw Nation does not appear to have proceeded under the authority of the act of Congress of June 10, 1896, authorizing the establishment by the several tribes of a court or committee for the purpose of passing upon applications for citizenship as provided therein. It was not until September 12, 1896, ten days after the expiration of the period in which applications for citizenship were to be submitted to the "legally constituted court or committee" of the tribes under the act of June 10, 1896, that the Chectaw Council passed the act above referred to. That act provided for the appointment of census commissioners in each county, with authority "to enroll all recognized citizens of the Chectaw Nation by blood, intermarriage and adoption who are recognized as citizens of the Chectaw Nation under the treaties, constitution and law of the said nation." It further provided that "the rolls when completed by said commissioners shall be certified to by said commissioners and delivered to the Principal Chief of the Chectaw Nation on or before the twentieth day of October, 1896, to be revised and approved by the next General Council of the Chectaw Nation."

It is manifest that this act conferred no power upon such commissioners to admit any person to citizenship, but only to enroll "recognized citizens". Yet in virtue thereof one of the county committees assumed to pass upon a petition prepared by Thompson's attorney, under date of August 1, 1896, and addressed to the General Council of the Cheetaw Nation, "at its regular session October 1896, "praying that "all rights, privileges, and immunities of the Cheetaw Nation" be granted to himself, his wife, family and certain other relatives, "and they be enrolled with the legal citizenship of said Nation."

This petition does not appear ever to have been presented to the Cheetaw Council or referred by any competent authority to the committee which assumed to pass upon it. Upon its back is the following endorsement:

William C. Thompson together with the names appearing on the face of the within application, lineal descendants of Margaret McCoy are hereby recognized and admitted to the citizenship of the Cheetaw Nation or Tribe of Indians by the legally constituted Cheetaw Census Commission duly assembled at Kiowa, I.T. this the 8th day of October, 1896, upon the testimony of Henry Perkins, Mrs. Lavinia Franklin, they being enrolled Cheetaw Indians by blood. The within named parties not being present were passed for further enrollment.

A. G. Folsom,
Secretary of Census Committee.

This was a manifest attempt to exercise an authority not delegated to the committee.

On October 30, 1896, the Cheetaw Council, at its regular session, passed an act creating three commissions, one from each District, one member of each of which to be designated as "Chief Commissioner", "to make a complete roll of the citizens of the Cheetaw Nation." By that act it was made the duty of said com-

missions "to examine the rolls made by the commissions under the act of September 18, 1896, and also to expunge from said rolls of September 18, 1896, the names of all persons whom they shall adjudge not to be citizens". It was further provided:

The Commission shall enroll as citizens all who come under any of the following heads, and all such persons are hereby declared citizens of the Cheetaw Nation:

I. All Cheetaws by blood born and raised in the Cheetaw Nation.

II. All Cheetaws by blood who have been admitted to citizenship by the General Council and now residents of the Nation.

X X X X X

It was provided that "at the expiration of the time allowed the commissions in each District, the Chief Commissioner shall meet at Tushka Homma at their earliest convenience and not later than the first Monday in December 1896, and shall revise the Rolls made by their respective District Commissions during the succeeding ten days after they meet". The Chief Commissioners were authorized to "enroll the name of any citizen who for any good cause failed to appear before the District Commissions". It was further provided that "the Roll as completed and signed by the Chief Commissioners, when approved by the Principal Chief, shall be the legal and authorized Roll of citizens of the Cheetaw Nation".

These parties were enrolled by the registry board, but that their enrollment was unauthorized is clear. The act just referred to only authorized the enrollment of Cheetaws by blood who were "born and raised" in the Cheetaw Nation or had "been admitted to citizenship by the General Council." The applicants per-

posed neither of these qualifications. According to his own statement, William C. Thompson was not raised in the Choctaw Nation, having been taken to Mississippi shortly after his birth, and returning only once during his boyhood for about a year. It is further stated that he remained in Mississippi until the war, when he went to Texas, not returning again to the Choctaw Nation until 1887. He had never been "admitted to citizenship by the General Council." His wife and children could claim no greater rights than he possessed. The other applicants named in his petition were descendants of his brother, who was born in Mississippi and whose record appears to be otherwise about the same as William C. Thompson's.

Moreover, it appears from the opinion of the Assistant Attorney General for the Interior Department of March 24, 1906, in the case of Mary Elizabeth Martin, that on July 17, 1887, the Principal Chief of the Choctaw Nation advised the Commission to the Five Civilized Tribes that he had refused to approve the last revised roll made in accordance with the act of October 30, 1896, because he was satisfied there were some names thereon "that have been registered through fraud or misrepresentation." As such approval was necessary in order to make the roll so prepared "the legal and authorized roll of citizens of the Choctaw Nation," it would seem that in no aspect of the case could these parties be said to be lawfully admitted and enrolled.

It further appears that these applicants, or some of them including William C. Thompson, applied in 1900 to the Commission

for the Five Civilized Tribes for identification as Mississippi Choctaws under the following provision of section 21 of the act of June 28, 1898:

Said commission shall have authority to determine the identity of Choctaw Indians claiming rights in the Choctaw lands under article fourteen of the treaty between the United States and the Choctaw Nation concluded September twenty-seventh, eighteen hundred and thirty, and to that end they may administer oaths, examine witnesses, and prepare all other acts necessary thereto and make report to the Secretary of the Interior.

Article 14 of the treaty of September 27, 1830, provided:

ARTICLE XIV. Each head of a family being desirous to remain and become a citizen of the States shall be permitted to do so, by signifying his intention to the Agent within six months from the ratification of this Treaty, and he or she shall thereupon be entitled to a reservation of one section of six hundred and forty acres of land, to be bounded by sectional lines of survey; in like manner shall be entitled to one half that quantity for each unmarried child which is living with him over ten years of age; and a quarter section to such child as may be under 10 years of age, to adjoin the location of the parent. If they reside upon said lands intending to become citizens of the States for five years after the ratification of this Treaty, in that case a grant in fee simple shall issue; said reservation shall include the present improvement of the head of the family, or a portion of it. Persons who claim under this article shall not lose the privilege of a Choctaw citizen, but if they ever remove are not to be entitled to any portion of the Choctaw annuity.

The only evidence adduced in any way tending to show a compliance with the terms of this article were statements to the effect that William C. Thompson's grandfather applied for land under the treaty of 1830 but was refused by the Indian agent. Congress, however, by the acts of March 3, 1837, and August 23, 1842, (5 Stat. 120, 513), appointed Commissioners for the purpose of adjusting claims of this kind, and there was no evidence to the effect

that the ancestors of the claimants had endeavored to comply with the provisions of those acts, or received patents or certificates for land as therein provided for. The Commission properly held, therefore, that it was impossible to identify the applicants as Mississippi Choctaws.

Upon the whole case, it seems to me clear that these applicants, and those claiming intermarried rights with them, should be denied enrollment.

The other cases consolidated with this are of a similar nature, and under the views above stated the parties referred to therein are, in my judgment, not entitled to be enrolled.

5. The Case of Richard B. Coleman et al.

The enrollment of the parties referred to in this case depends upon the effect to be given to the following act of the General Council of the Choctaw Nation passed November 8, 1899:

An Act to establish the citizenship of R. B. Coleman, his wife and their children.

Sec. 1. Be it enacted by the General Council of the Choctaw Nation Assembled, That Richard Benjamin Coleman, and their children, as follows: Richard St. Clair, age 15 years, Ida Clay, age 13, Emmetta, age 11, Bettie Withers, age 9, Henry Allen, age 6, Willie Norma Coleman, age 4 years, are hereby admitted to citizenship in the Choctaw Nation with its rights, privileges, and immunities, and that this act shall take effect and be in force from and after its passage.

It is contended that this act was procured by fraud and bribery, and that, therefore, the names of Coleman and his family should be eliminated from the tribal rolls upon which they appear, under the act of Congress of June 28, 1898, which provides:

Said Commission is authorized and directed to make correct rolls of citizens by blood of all the other tribes, eliminating from the tribal rolls such names as may have been placed thereon by fraud or without authority of law, enrolling such only as may have lawful right thereto X X X.

The Commission held that they had no authority to go behind the act of the Cheetaw Council referred to, but in an informal opinion rendered you December 7, 1904, Acting Attorney General Day, after quoting the above provision, said:

It appears to me the above quoted provisions of the statute impose upon the Commission to the Five Civilized Tribes the duty and gave it the power to determine whether any name appearing upon a tribal roll was placed there by fraud or without authority of law, and that the mere fact that such enrollment was by virtue of an act of the National Council is not sufficient to preclude an inquiry. An act of the Council should be treated with respect as *prima facie* valid and efficacious, and nothing done as the result thereof should be lightly set aside; but if it clearly appears that the act was procured by deliberate fraud and perjury I do not think that Congress intended that benefits thereunder should be enjoyed.

Mr. Day did not pass upon the facts of this case. Subsequently, the Assistant Attorney-General for the Interior Department, upon a consideration of the record, held that it did not clearly appear therefrom that the act in question had been fraudulently procured.

In my judgment the record in this case clearly shows deliberate fraud on the part of Richard B. Coleman in procuring the passage of the act admitting him to citizenship. It appears that Coleman came into the Cheetaw Nation about 1880. In 1887 he made application to the citizenship committee of the Cheetaw Council for admission as a citizen by blood, representing by himself and witnesses he brought before the committee that his father was a Cheetaw boy named Frank Coleman, the son of a John

Coleman and Chapponia, a full blood Choctaw, who had lived in Mississippi with his parents prior to the migration in 1830. The boy Frank it was testified, had been sent to Kentucky to school and nothing afterwards heard of him.

The testimony adduced on behalf of the Nation before the Commission to the Five Civilized Tribes shows that the father of Coleman was Francis S. Coleman, a son of a Francis Coleman who was born and raised in Orange County, Virginia, and was not a Choctaw. This testimony was given in the form of a deposition by Mrs. Harriet Henry, a sister of Francis S. Coleman, and R. L. Coleman a nephew, residing at Columbia, Missouri. The identity of Francis S. Coleman with the father of the applicant appears from the fact testified to by the applicant as well as the two witnesses just referred to, that he married Ann Elizabeth Bedford, the daughter of John Bedford, in Kentucky, and the testimony of all parties that Francis S. Coleman went to Denton, Texas, and died there. Although duly advised as to the intention of the attorneys for the Choctaw Nation to take this testimony, no effort was made by Coleman or his attorney to file cross interrogatories or in any way rebut it, but they confined themselves to an endeavor to have the testimony stricken from the records as not having been taken in accordance with law. The authority of the Commission to take the testimony in this was is clear, under the act of June 26, 1898 (30 Stat., 496), which provides:

Said commission shall make such rolls descriptive of the persons thereon, so that they may be thereby identified, and it is authorized to take a census of each of said tribes, or

to adopt any other means by them deemed necessary to enable them to make such rolls.

This testimony was further enforced by another deposition of said R. L. Coleman, taken by Commissioner Tamm Bixby, in which R. L. Coleman stated further that he knew the applicant Richard B. Coleman, that he was his cousin. A motion was likewise made to strike this testimony from the record, because taken without notice to the applicant, but it was overruled by the Commission, who held that under the authority of the above act they could take such measures as they deemed necessary to satisfy themselves as to the justice of the applicant's claim. I do not think it is shown that they abused their discretion in this matter.

It appears that the application of Richard B. Coleman to be enrolled as a citizen by blood of the Nation, upon the grounds above stated, was passed over by the citizenship committee of the Council in 1887; taken up again in 1888 and a bill of rejection passed by the committee of the council; renewed at the session of 1889, and a bill of admission introduced into the House of Representatives which was rejected, and then a new bill introduced and enacted into the law above quoted.

I think it sufficiently appears from the testimony in this case, particularly that given by and on behalf of the applicant himself, that the Council in admitting him and his family to citizenship did so upon the strength of the testimony adduced by him before the Committee on Citizenship that he was a Cheetan by blood, descended as he represented. It is to be observed that he and his family all claim that he was admitted as a Cheetan by blood.

Some testimony was introduced for the purpose of showing that Coleman had bribed one Reebuck, the member of the Council who introduced the second bill, but the evidence on that point is not sufficient to establish the fact.

In October, 1898, the General Council of the Choctaw Nation passed an act repealing the act of November 8, 1889, admitting Coleman and his family to citizenship? This act was, however, disapproved by President McKinley, upon the recommendation of the Secretary of the Interior, under the authority of the act of Congress of June 26, 1896, which required the approval of the President to all acts of the Choctaw and Chickasaw Nations in any manner affecting the lands of the tribes.

Although this act was thus invalidated, it may fairly be taken to indicate the sense of the Nation at that time that Coleman was improperly admitted. The reason for its disapproval does not appear but it might reasonably have been rejected on the ground that by the act of June 26, 1896, the work of making up the rolls of citizenship and eliminating therefrom those placed thereon by fraud was committed entirely to the Commission to the Five Civilized Tribes.

It is to be observed that Commissioner Bixby, who was the only Commissioner who considered this case on its merits, was "clearly of the opinion from such evidence as has been presented to this Commission that the evidence presented to and acted upon by the Citizenship Committee of the Choctaw General Council, which passed upon the petition of these applicants, and upon which evidence their admission to Choctaw Citizenship was based, was fraudulent, false,

and misleading."

In my opinion, these parties should be stricken from the rolls

6. The Case of Ethel Pierson.

This case presents the question of your authority to enroll the children of Choctaw freedmen who were miners living March 4, 1906. The decision of this question turns upon the construction to be given to section 2 of the Act of April 26, 1906 (34 Stat., 137), as amended by the Act of June 21, 1906 (34 Stat. 342).

The act referred to originally provided:

Sec. 2. That for ninety days after approval hereof applications shall be received for enrollment of children who were miners living March fourth, nineteenth hundred and six, whose parents have been enrolled as members of the Choctaw, Chickasaw, Cherokee, or Creek Tribes, or have applications for enrollment pending at the approval hereof, and for the purpose of enrollment under this section illegitimate children shall take the status of the mother, and allotments shall be made to children so enrolled. If any citizen of the Cherokee tribe shall fail to receive the full quantity of land to which he is entitled as an allotment, he shall be paid out of any of the funds of such tribe a sum equal to twice the appraised value of the amount of land thus deficient. The provisions of section nine of the Creek agreement ratified by Act approved March first, nineteen hundred and one, authorizing the use of funds of the Creek tribe for equalizing allotments, are hereby restored and reenacted, and after the expiration of nine months from the date of the original selection of an allotment of land in the Choctaw, Chickasaw, Cherokee, Creek or Seminole tribes, and after the expiration of six months from the passage of this Act as to allotments heretofore made, no contest shall be instituted against such allotments: Provided, That the rolls of the tribes affected by this Act shall be fully completed on or before the fourth day of March, nineteen hundred and seven, and the Secretary of the Interior shall have no jurisdiction to approve the enrollment of any person after said date: Provided further, That nothing herein shall be construed so as to hereafter permit any person to file an application for enrollment in any tribe where the date for filing application has been fixed by agreement between said tribe and the United States: Provided, That nothing herein shall apply to the intermarried

whites in the Cherokee Nation, whose cases are now pending in the Supreme Court of the United States.

The amendatory act provided, (34 Stat., 341-2):

That section two of the Act entitled "An Act to provide for the final disposition of the affairs of the Five Civilized Tribes in the Indian Territory, and for other purposes," approved April twenty-sixth, nineteen hundred and six, be, and the same is hereby, amended by striking out thereof the words "Provided further that nothing herein shall be construed so as to hereafter permit any person to file an application for enrollment in any tribe where the date for filing application has been fixed by agreement between said tribe and the United States: Provided further, That nothing herein shall apply to the intermarried whites in the Cherokee Nation whose cases are now pending in the Supreme Court of the United States." And insert in said Act in lieu of the matter repealed, the following) Provided further, That nothing herein shall be construed so as hereafter to permit any person to file an application for enrollment or to be entitled to enrollment in any of said tribes, except for minors the children of Indians by blood, or of freedmen members of said tribes, of of Mississippi Choctaws identified under the fourteenth article of the treaty of eighteen hundred and thirty, as herein otherwise provided, and the fact that the name of a person appears on the tribal roll of any of said tribes shall not be construed to be an application for enrollment.

In the agreement with the Choctaw and Chickasaw Nation ratified by the act of July 1, 1902 (32 Stat. 641), it was provided (paragraphs 1 and 3) that the words "member" or "members" and "citizen" or "Citizens", "whenever used in this agreement", shall be held to mean members or citizens of the Choctaw or Chickasaw tribe of Indians in Indian Territory, not including freedmen."

The Commissioner to the Five Civilized Tribes in passing upon this case held that, in view of the above definition, the act of April 26, 1906, as amended, was not intended to apply to the children of freedmen in the Choctaw and Chickasaw Nations, but only to those of the Cherokee and Creek Nations.

There would be some force in the argument that minors the children of freedmen members of the Choctaw Nation were not included,

in the Act of April 24, 1906, if it were not for the proviso substituted by the amendatory act of June 21, 1906. That proviso was, as the Commissioner said, "in the nature of a construction by Congress of the meaning intended to be conveyed by the section as originally enacted." It says, in so many words, that minors the children of freedmen members of said tribes (referring to all of the tribes, which are separately named in the preceding part of section 2, among them the Choctaw and Chickasaw tribes) may be enrolled. This definition settles the doubt that otherwise might have arisen as to the children of freedmen members of said tribes, as well as the children of Mississippi Choctaws. If, therefore, the Choctaw freedmen are members of said nation, the right of their children to be enrolled can to be questioned.

The Choctaw freedmen were adopted by an act of the General Council of the Nation approved May 21, 1883, entitled "An Act to adopt the freedmen of the Choctaw Nation", which provided (Report of Commissioner of Indian Affairs, 1884, p. XEV):

Whereas by the third and fourth articles of the treaty between the United States and the Choctaw and Chickasaw Nations, concluded April, 23, 1866, provision was made for the adoption of laws, rules, and regulations necessary to give all persons of African descent resident in said nations at the date of the treaty of Fort Smith, September 13, 1866, and their descendants, formerly held in slavery among said nations, all the rights, privileges, and immunities, including the right of suffrage, of citizens of said nations, except in the annuities, moneys, and public domain claimed by or belonging to said nations respectively; and also to give to such persons who were residents as aforesaid, and their descendants, 40 acres each of the lands of said nations on the same terms as Choctaw and Chickasaw, to be selected on the survey of said lands; until which said freedmen shall be entitled to as much land as they may cultivate for the support of themselves and families; and

Whereas the Choctaw Nation adopted legislation in the form of a memorial to the United States Government in regard to adopting freedmen to be citizens of the Choctaw Nation, which was approved by the principal chief November 2, 1880, setting forth the status of said freedmen and the inability of the Choctaw Nation to prevail upon the Chickasaws to adopt any joint plan for adopting said freedmen, and notifying the United States Government of their willingness to accept said freedmen as citizens of the Choctaw Nation in accordance with the third and fourth articles of the treaty of 1866 as a basis; and

Whereas a resolution was passed and approved November 5, 1880, authorizing the principal chief to submit the aforesaid proposition of the Choctaw Nation to adopt their freedmen to the United States Government; and

Whereas a resolution was passed and approved November 6, 1880, to provide for the registration of freedmen in the Choctaw Nation, authorizing the principal chief to appoint three competent persons in each district, citizens of the nation, whose duty it shall be to register all freedmen referred to in said third article of the treaty of 1866 who desire to become citizens of the nation in accordance with said treaty, and upon proper notification that the Government of the United States had acted favorably upon the proposition to adopt the freedmen as citizens, to issue his proclamation notifying all such freedmen as desire to become citizens of the Choctaw Nation to appear before said commissioner for identification and registration; and--

Whereas in the Indian appropriation act of Congress May 17, 1882, it is provided that either of said tribes may adopt and provide for the freedmen in said tribe in accordance with said third article: Now, therefore,

Be it enacted by the general council of the Choctaw Nation, that all persons of African descent resident in the Choctaw Nation at the date of the treaty of Fort Smith, September 13, 1866, and their descendants, formerly held in slavery by the Choctaws or Chickasaws, are hereby declared to be entitled to, and invested with all the rights, privileges, and immunities, including the right of suffrage, of citizens of the Choctaw Nation, except in the annuities, monies and the public domain of the nation.

Sec. 3. Be it further enacted, That all said persons are hereby declared to be entitled to be selected and held by them under the same title and upon the same terms as the Choctaws.

It appears that this act was accepted by the Secretary of the Interior on behalf of the United States as a substantial compli-

The Secretary of the Interior--

-41-

ance with the terms of the treaty of 1866, and the moneys authorized to be paid by that treaty upon a compliance therewith were turned over to the Nation.

I am of opinion, therefore, that the Assistant Attorney General for the Interior Department was right in his conclusion that miners, the children of Chester freedom, living March 4, 1906, are entitled to be enrolled.

This disposes of the several cases submitted. The papers therein are herewith returned.

Respectfully,

Charles J. Bonaparte,

Attorney General.

LRS

J.P.
PHE.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

DO-12410-1907.
I.T.D. 1402-1907.

February 26, 1907.

DIRECT.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

In view of the opinion of the Attorney-General of February 19, 1907, relative to the case of Loula West, et al., the decision of the Department of January 9, 1907, in favor of the claimants in the case of Mattie Shockley, et al., returned with your letter of January 17, 1907, is rescinded, and the decision of your office in favor of the claimants is reversed.

A copy hereof has been sent to the Indian Office.

Respectfully,

Jesse N. Wilson,
Assistant Secretary.

APMc
2-27-07

Muskogee, Indian Territory, February 27, 1907.

The Honorable,

The Secretary of the Interior.

Sir:

Referring to Departmental letter of February 23, 1907, (I.T.D. 4564-1907), authorizing this office to cancel the enrollment of the persons included in the case of Loula West, I have the honor to report that on February 12, 1907, there were forwarded the Department schedules comprising the names of persons whose applications for enrollment were granted in the Choctaw enrollment case of Mattie Shockley et al., (Loula West case), as follows:

Schedule of citizens by blood of the Choctaw Nation
Nos. 16160 and 16174 inclusive.
Schedule of citizens by marriage of the Choctaw Nation
Nos. 1646 to 1649 inclusive, and
Schedule of minor children of the Choctaw Nation
Nos. 919 and 920.

I have, therefore, to recommend that my decision of March 19, 1906, which was transmitted May 4, 1906, be not approved by the Department, and that the schedules above described transmitted with letter of February 12, 1907, be disapproved by the Department.

Respectfully,

Commissioner.

SPECIAL
DEPARTMENT OF THE INTERIOR
WASHINGTON

FP
FHE

D.C. 12411-1907.
I.T.D. 5684-1907.
5680- "

March 1, 1907.

LRS

Direct.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

Referring to your telegram of the 27th instant, concerning the proposed partial rolls of persons claiming to be citizens of the Choctaw Nation by blood, numbers 16160 to 16174 inclusive; citizens by intermarriage, numbers 1646 to 1649 inclusive, and minor children, numbers 919 and 920, respectively, being parties of the case of Lula (or Loula) West, et al., or descendants of such persons, you are informed that by letter of February 23, 1907, you were advised that the right of these parties to enrolment was denied.

In accordance therewith, and in accordance with the recommendation of the Indian Office in letter of February 28, 1907, copy inclosed, the proposed rolls are disapproved.

A copy of this letter, with such proposed rolls, will be sent to the Indian Office. A copy of your telegram has been sent to that office.

Respectfully,

1 inc. and 15 to Ind. Of.

E. A. Hitchcock,

Secretary.

A.F.No.
3-1-07.

LAND
16776-1907.

--Copy--

DEPARTMENT OF THE INTERIOR
OFFICE OF INDIAN AFFAIRS
WASHINGTON

February 28, 1907.

The Honorable,

The Secretary of the Interior.

Sir:

There is forwarded herewith report of Commissioner Bixby, dated February 12, 1907, transmitting for Departmental consideration a schedule of citizens of the Choctaw Nation, containing the names of persons involved in the case of Mattie Shockley, et al., and of certain minor citizens who are not included in the decision of the Commissioner of March 19, 1906, in that case, but whose enrollment is dependent on the approval of the enrollment of their parents.

In view of the opinion of the Attorney General for the United States of February 19, 1907, in the case of Loula West, et al., and of Myrtie Randolph, et al., it is recommended that the schedule herewith transmitted be disapproved.

Very respectfully,

C. F. Larrabee,

Acting Commissioner.

AJW-KH

D.C. 18011-1907.
I.T.D. 6912-1907.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

JP

WHE

LRS
DIRECT.

March 4, 1907.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

Answering your letter of February 27, 1907, relative to the Choctaw enrolment case of Mattie Shockley, et al., you are advised that the schedules mentioned therein have been disapproved by the Department.

A copy hereof has been sent to the Indian Office.

Respectfully,

Jesse H. Wilson

Assistant Secretary.

Copy hereof to
Ind Of.

W.C.F. 3/4/07

7-6030
23-773

Muskogee, Indian Territory, March 7, 1907.

George H. Bartlett,

Sulphur, Indian Territory.

Dear Sir:

Receipt is hereby acknowledged of your letter of February 19, 1907, in which you ask the status of the citizenship of E. E. Shockley and family as he is anxious to file on land.

In reply to your letter you are advised that on February 23, 1907, the Secretary of the Interior reversed the decision of the Commissioner to the Five Civilized Tribes granting the application for the enrollment of Ephraim E. Shockley in accordance with an opinion of the Attorney General of the United States of February 19, 1907, holding that the applicants in the consolidated case of Lattie Shockley et al. were not entitled to enrollment and on March 1, 1907, the schedules containing the names of the persons whose applications for enrollment were granted in this case were disapproved by the department.

Respectfully,

Commissioner.

7-6030

22-773

Muskogee, Indian Territory, March 31, 1907.

George H. Bartlett,

Sulphur, Indian Territory.

Dear Sir:

Receipt is hereby acknowledged of your letter of February 19, 1907, in which you ask the status of the citizenship of E. E. Shockley and family as he is anxious to file on land.

In reply to your letter you are advised that the name of Ephriam E. Shockley has been placed upon a schedule of citizens of the Choctaw Nation which has been forwarded to the Secretary of the Interior, and you and the applicant will be notified when his enrollment is approved by the Department.

You are further advised that the name of Plasse Shockley, child of Ephriam E. Shockley and Ava Shockley, has been placed upon a schedule of minor citizens of the Choctaw Nation under the act of Congress approved April 26, 1906, which has been forwarded to the Secretary of the Interior, and when her enrollment is approved by him the father will be notified.

Respectfully,

Commissioner.

D.O.M.
G.W.W.
File 8-51.
D
6476

J.V.H.
J.V.H.
W.C.P.
J.V.L.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

March 1, 1909

Seal-- 17077
Office of Ind. Affairs
Rec. March 3-1909.

The Commissioner

to the Five Civilized Tribes.

Sir:

January 25, 1909, you were advised that the names of certain persons were inadvertently included in Departmental letter of January 19, 1909 (File 8-51); that such mistake was due to the fact that it was supposed they were enrolled upon schedules approved by the Department, when in fact, the only schedules upon which their names appear were disapproved, and that no action should be taken under the circumstances looking to the erasure of interlineations or notations, if any, from the disapproved schedules, in connection with their names.

The names of the persons referred to in said letter of January 25, 1909, are as follows:

Cheetaw by Blood.

Roll No.

16103

Elizabeth Allen.

16103
16104
16105
16111
16108
16107
16108
16109
921
922
16104

George A. Bumgarner.
Leontina Crutchfield.
Everett Crutchfield.
George W. Crutchfield.
Ida Crutchfield.
Ima Crutchfield.
Leuvinia Crutchfield.
William Crutchfield.
Josephine LaFlere Long.
Eake LaFlere Long.
David Ritter.

It now appears from the records of the Secretary's Office that there was a schedule approved May 21, 1904, by the Secretary of the Interior, and that the approval then given was cancelled by said Secretary at a later date, to-wit, June 28, 1904.

The name of Elizabeth Allen appears upon the schedule which was approved May 21, 1904, opposite the number 15561. Ida Crutchfield's name appears opposite No. 15553, while the other members of the Crutchfield family were given the numbers immediately following that assigned to her.

You are requested to cause a report to be prepared showing whether the records of your Office also show that an earlier schedule containing the names of said persons was approved May 21, 1904; also whether such approval was cancelled June 28, 1904. Please report also the reason for the attempted cancellation, and whether prior notice was given thereof.

It appears further that, in connection with the names of Elizabeth Allen and the Crutchfield family on the roll approved May 21, 1904, the names of Ardella Hickman, Ida M. Southard and Grover Randall are also to be found.

4

In connection with said names, it is desired that you will report what action, in your opinion, should be taken concerning the first of said persons; also whether the said Ida M. Southard and Grover Randall, respectively, are identical with the Ida M. Southard whose name appears opposite No. 15880 in the printed rolls of citizens by blood of the Choctaw Nation, and the Grover Randall whose name appears on page 8 of Departmental letter of January 19, 1909 (File 5-51), opposite No. 15928.

As appears from the above list, there were other persons besides the said Allen and Crutchfield whose names were enrolled on schedules which were finally disapproved by the Department; for example, George A. Bumgarner, Josephine Laflors Long and Jake Laflors Long.

Please report whether the names of these persons appear upon any prior approved schedule; also why it was that the Commissioner to the Five Civilized Tribes enrolled them upon the schedule which was disapproved by the Department, showing whether the Commissioner enrolled them thereon, of his own motion, or under decision or instructions from the Department.

By comparison of the roll approved May 21, 1904, with the printed rolls of Choctaws by blood, the Department finds that the numbers appearing thereon opposite the names of said persons were subsequently assigned to other citizens of the Choctaw Nation; thereby the series of roll numbers was kept perfect, but a material portion of the rolls was evidently sacrificed upon the supposition that it had become

3.

worthless. Inquiry arises in this connection as to whether there were other approved schedules which were subsequently disapproved and thrown aside. Accordingly, it is desired that you also cause a report to be prepared covering this feature of the matter, showing all persons embraced in similar cases, with recommendation as to what action should be taken as to them. This will necessitate a statement as to why their names were stricken or cancelled from the rolls, and whether such action was taken without prior notice.

There is still another matter concerning which the Department desires report to be made. It is observed that the words "No person enrolled at this number" are to be found not infrequently opposite consecutive numbers on the pages of the printed rolls; and you are requested to advise the Department whether such words were substituted for the names of individuals appearing on disapproved schedules, and if such is the case, whether such disapproved schedules were approved at any time by the Department; also whether favorable decisions were ever rendered by the Department as to such persons prior to their enrollment upon such disapproved schedules.

For the sake of expedition, a partial report should be rendered at once concerning the said Elizabeth Allen and the various members of the Crutchfield family named above. The other matters referred to herein can be disposed of by subsequent reports.

Very respectfully,

James E. Wilson.

Assistant Secretary.

Through the

Index Office

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at,
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1, 100.

Call to number 100 at
letter 100, 100, in
persons of 100 in
included in 100 letter
of Jan. 100, 100, 100, 100
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Land
65225-00
17077-00
J B H

B B H
B B H

DEPARTMENT OF THE INTERIOR
OFFICE OF INDIAN AFFAIRS

WASHINGTON, D.C., March 1, 1903
Respectfully referred to the Commissioner
to the Five Civilized Tribes, for appropriate
action.

John Francis, Jr.
Acting Chief Land Division

1 Letter
dated Feb. 1-03.

D 301-1909

Muskogee, Oklahoma, April 14, 1909.

Subject:

Reporting on Departmental
letter of March 2, 1909,
as to case of Mattie Shockley,
et al. analogous to case
of Minerva F. Sudley, et al.

The Honorable,

The Secretary of the Interior.

Sir:

Receipt is hereby acknowledged of Departmental letter of March 2, 1909 (File 5-51) asking for reports on certain Choctaw cases analogous to the case of Minerva F. Sudley, et al. and directing that the report be made in the form of answers to questions one to five inclusive in Departmental communication of February 25, 1909, relative to Mattie L. Armstrong, and that instead of question six the report should state whether any attempt was made, directly or indirectly, to give notice of the rescinding of Departmental decision favorable to the applicants.

Reference is also made to Departmental letter of March 1, 1909 (File 5-51) asking for reports on the cases of all persons whose names appear on schedules of Choctaw and Chickasaw which were disapproved by the Department.

Secretary 2

I have the honor to state that the case of Mattie Shockley, et al. (Loula West case) is one of the cases included in both Departmental letters above referred to, and to report therein as follows:

It appears from the records of this office that on September 9, 1896, in the case entitled P. K. West, et al. versus the Choctaw Nation, 1896 Choctaw Citizenship Case Number 936, original application was made to the Commission to the Five Civilized Tribes under the provisions of the Act of Congress approved June 10, 1896 (29 Stat., 541) for admission of the applicants, Mattie Shockley (as Mattie L. Shockley), Felix K. West (as F. K. West), Ava Shockley, Callie Shockley and Elzora Shockley as citizens by intermarriages of the Choctaw Nation, and John E. Shockley (as Eddie Shockley), Lula West, Roy West, Ephriam E. Shockley, Mattie Shockley, Leverett Shockley, Charles L. Shockley, Albert Shockley, Lenora Parker (as Nora Parker), Albert R. Shockley (as Albert Shockley) and Ethel Shockley as citizens by blood of the Choctaw Nation; that on December 5, 1896, the Commission admitted the above applicants as citizens of the Choctaw Nation.

From this decision an appeal was taken by the Choctaw Nation to the United States Court for the Central District of Indian Territory, which court, in case Number 226 on the Citizenship Docket, affirmed the decision of the Commission admit-

Secretary 3

ving these applicants to citizenship in the Choctaw Nation.

On December 17, 1902, the Choctaw and Chickasaw Citizenship Court, created under the provisions of the Act of Congress approved July 1, 1902 (32 Stat., 641) "set aside, annulled, vacated and held for naught" the aforesaid judgment of the United States Court for the Central District of the Indian Territory. Thereafter the record in this case was certified to the Choctaw and Chickasaw Citizenship Court for a trial de novo, and this court, on March 21, 1904, in the case of F. K. West, et al. versus the Choctaw and Chickasaw Nations, Number 42 on the South McAlester Docket of said court, ordered, adjudged and decreed that all these applicants be denied and declared not citizens of the Choctaw Nation, and not entitled to enrollment as such citizens, or to any rights whatever flowing therefrom.

May 27, 1904, orders were entered of record by the Commission to the Five Civilized Tribes, dismissing the applications for the enrollment of Gerine West, Elva May Shockley, Herman Shockley, Mamie Shockley, Trevor M. Parker, Lucie F. Parker and William Yellie Parker as citizens by blood of the Choctaw Nation for the reason that their parents had been denied enrollment by a decree of the Choctaw and Chickasaw Citizenship Court.

December 16, 1904, Lula West, one of the applicants in this case, forwarded a petition to the President, praying him

Secretary 4

to cause an investigation to be made of the allegations contained in said petition, and if the same were found to be true, to cause her name to be placed upon the final roll of citizens by blood of the Choctaw Nation.

This petition was on February 15, 1905 (I T D 10383-1904) forwarded by the Department to the Commission to the Five Civilized Tribes with instructions to permit the petitioner to submit such testimony in support of her claim as she might see fit and enclosed a copy of an opinion of the Assistant Attorney General for the Department of the Interior of February 10, 1905, wherein it was held that said Commission had jurisdiction to examine into the claimants' cause, and should adjudge it upon its merits, regardless of the judgment of the Choctaw and Chickasaw Citizenship Court.

A motion for review was filed with the Department by the Attorneys for the Choctaw and Chickasaw Nations, and on December 13, 1905 (I T D 4380-1905) the Department forwarded a copy of an opinion of the Assistant Attorney General for the Department of the Interior of December 8, 1905 (I T D 3693-1905), wherein he adhered to his former opinion rendered February 10, 1905, and held that Iala West having on January 9, 1890, been admitted to citizenship in the Choctaw Nation by the Secretary of the Interior, the Commission to the Five Civilized Tribes had no jurisdiction under the Act of Congress of

Secretary 5

June 10, 1896, to pass upon her rights, and the United States Court for the Central District of Indian Territory, and the Choctaw and Chickasaw Citizenship Court on appeal were also without jurisdiction. Copies of this opinion were forwarded the applicant, Mula West, and her attorney of record on December 23, 1905.

Under the regulations adopted by the Commissioner to the Five Civilized Tribes January 2, 1906, there was filed on January 22, 1906, by Thomas Norman, of Ardmore, Indian Territory attorney for the petitioners, a petition verified by Lula West, and submitted on behalf of Lula West, F. E. West, Ray West, Marie West, Corine West, Elzora Shockley, Ethel Jones, nee Shockley, Charles L. Shockley, Callie Shockley, Albert Shockley, Herman Shockley, Mamie Shockley, Herbert E. Shockley, E. H. Shockley, Ava Shockley, Mattie Shockley, Leverett Shockley, Elva May Shockley, Plassea Shockley, Pauline Daniel, nee Shockley, Albert Shockley, Mattie L. Osborn, nee Shockley, Eddie Shockley, Lenora Parker, nee Shockley, Treva Myrtle Parker, Lucie Franklin Parker, William Leslie Parker, and Albert E. Shockley, praying that they be enrolled as citizens of the Choctaw Nation.

All parties in interest were notified and a hearing was had in this case March 5, 1906.

Secretary 6

It appears from the record in this case that on July 1st, 1889, on appeal from the adverse action of the Choctaw National Council, the United States Indian Agent, Leo E. Bennett, rendered a decision admitting John Shockley, now deceased, Mattie L. Shockley, William Shockley, now deceased, Elsera Shockley, Charles L. Shockley, Ephriam Shockley, Lula Shockley and Robert Shockley to Choctaw citizenship, said decision being on January 9, 1890, approved by the Secretary of the Interior.

The applicants contended that no such person as Robert Shockley existed; that this was an error and should have been Albert Shockley, now deceased, a son of John Shockley, the principal petitioner before the Indian Agent.

Upon an examination of the tribal rolls of the Choctaw Nation in the possession of this office, the names of John E. Shockley, Lula West, May West, Ephriam E. Shockley, Mattie Shockley, Charles L. Shockley and Albert Shockley are identified upon the 1893 Leased District Payment Roll of the Choctaw Nation, Chickasaw District, Numbers 501, 541, 582, 495, 499, 497 and 500 respectively.

March 19, 1906, the Commissioner to the Five Civilized Tribes rendered an opinion which reversed the orders of the Commission to the Five Civilized Tribes of May 27, 1904, dismissing the applications for the enrollment of Gerine West, Elva May Shockley, Herman Shockley, Mamie Shockley, Trevor M.

Secretary 7

Parker, Ludie F. Parker and William Leslie Parker, and, in accordance with the opinions of the Assistant Attorney General for the Department of the Interior of February 10, 1905 (I T D 10353-1904) and December 8, 1905 (I T D 3693-1906) in the case of Lula West (Loula West), held that John E. Shockley, Lula West, Roy West, Marie West, Corinn West, Ephriam E. Shockley, Mattie Shockley, Laverett Shockley, Elva May Shockley, Charles L. Shockley, Albert Shockley, Hurman Shockley, Mamie Shockley, Albert R. Shockley and Albert P. Shockley should be enrolled as citizens by blood of the Choctaw Nation, and that Mattie Osborn, Ava Shockley, Callie Shockley and Paulina Shockley should be enrolled as citizens by intermarriage of said Nation, under the Acts of Congress approved June 28, 1898 (30 Stat., 495) and July 1, 1902 (32 Stat., 641).

The Commissioner further held that the applications made for the enrollment of Felix K. West and Elzora Shockley as citizens by intermarriage of the Choctaw Nation and the applications for the enrollment of Lenora Parker, Trevor M. Parker, Ludie F. Parker, William Leslie Parker and Ethel Shockley as citizens by blood of said nation should be denied under the provisions of the Act of Congress approved June 28, 1898.

The applicants, Placese Shockley and Herbert K. Shockley, not being the children of recognized and enrolled citizens by

Secretary 8

blood of the Choctaw Nation whose enrollment had been approved by the Secretary of the Interior prior to March 3, 1906, the applications for their enrollment as citizens by blood of the Choctaw Nation were dismissed without prejudice.

May 4, 1906, notice of this decision was forwarded the parties in interest by registered mail, and on the same date the original record in this case, together with the decision of March 19, 1906, was transmitted to the Department.

May 9, 1906, Thomas Norman forwarded a statement of exceptions to the decision in this case, in so far as it pertained to certain persons who were denied therein, and requested that the same be transmitted to the Secretary of the Interior, which was done May 14, 1906.

December 22, 1906 (Land 40199, 42796-1906) the Indian Office recommended that the decision of the Commissioner of March 19, 1906, be affirmed, and that, in the event the Department did affirm this decision, the Commissioner to the Five Civilized Tribes be directed to enroll the applicants, Flansee and Herbert E. Shockley, under Section two of the Act of Congress approved April 26, 1906 (34 Stat., 137). January 9, 1907 (I T D 23062-1906) the Secretary of the Interior affirmed the decision of the Commissioner to the Five Civilized Tribes of March 19, 1906, and directed that the office proceed with the adjudication of the claims of Flansee Shockley and

Secretary 9

Herbert E. Shookley under legislation enacted subsequent to the decision of March 19, 1906.

January 14, 1907 (I T D 25824-1906) this office was directed by the Department not to promulgate the decision of January 9, 1907 in this case and to return it at once direct to the Department as the parties in the case were not to be enrolled unless further advised by the Secretary of the Interior.

January 15, 1907 (I T D 812-1907) this office was advised, with reference to Departmental letters of January 9 and January 14, 1907, in the matter of the application for the enrollment of Mattie Shookley, et al. as citizens by blood of the Chester Nation, that, by direction of the President, the case would be submitted to the Attorney-General for his opinion and that no further action should be taken relative to these claimants until this office was further advised.

January 17, 1907, this office acknowledged receipt of Departmental letters of January 14, 1907 and January 15, 1907 and in conformity with the request of the Department, the communication of January 9, 1907, affirming the decision of the Commissioner to the Five Civilized Tribes of March 19, 1906, in the Chester enrollment case of Mattie Shookley et al., together with the report of the Acting Commissioner of Indian

Secretary 10

Affairs of December 22, 1906, was returned direct to the Department.

February 23, 1907. (I T D 4554-1907) this office was directed by telegram from the Department, which was subsequently confirmed by letter of the same date, to inspect the partial rolls of citizens of the Choctaw and Chickasaw Nations to determine what persons were enrolled thereon contrary to the views expressed by the Attorney-General in his opinion of February 19, 1907. The office was further advised in said telegram that decisions of the Department, based upon opinions of the Assistant Attorney-General in favor of claimants in certain cases, among which was Loula West, et al., were rescinded.

February 12, 1907, there were transmitted for the consideration of the Department, schedules of citizens of the Choctaw Nation, as follows:

Citizens by blood Nos. 16160 to 16174 inclusive
Citizens by marriage . . . Nos. 1646 to 1649 inclusive
Minor citizens by blood.. Nos. 919 to 920 inclusive

These schedules were composed of the persons who had been admitted by the Commissioner to the Five Civilized Tribes in his decision of March 19, 1906, in the case of Mattie Shockley et al. and Herbert E. Shockley and Flossie Shockley, whose names were scheduled without decisions in accordance with the provisions of the Act of Congress approved April 26, 1906.

Secretary 11

Inasmuch as the time within which persons could be enrolled and their enrollment approved by the Secretary of the Interior under the provisions of the Act of Congress approved April 26, 1905, was becoming very short, the schedules above described were prepared at this office without waiting for the opinion of the Attorney-General and were forwarded to the Department, in order that, if the opinion of the Attorney General were favorable to their contention, the rights of these applicants might be protected by the Department without delay.

February 27, 1907, referring to Departmental letter of February 23, 1907, authorizing this office to cancel the enrollment of the persons included in the case of Loula West, et al. this office transmitted reported that the schedules above referred to had been transmitted to the Department on February 12, 1907, and recommended that the decision of March 19, 1906, be not approved and that the schedules containing the names of the persons included in this decision be disapproved by the Department.

February 28, 1907 (I T D 1402-1907) the Department, in view of the opinion of the Attorney-General of February 19, 1907, in the case of Loula West et al., rescinded its decision of January 9, 1907, in favor of the claimants in the case of Mattie Shockley et al. and reversed the decision of this of-

Secretary 12

fice of March 19, 1906, favorable to the applicants.

March 1, 1907 (I T D 5680, 5684-1907) the Department advised this office that the schedules containing the names of the parties applicant in the case of Mattie Shockley et al. (Loula West case) had been disapproved. A report of the Indian Office of February 28, 1907 (Land 16776-1907) was also transmitted.

March 16, 1907, the parties in interest in this case were advised of the action of the Department reversing the decision of the Commissioner of March 19, 1906 as to the persons admitted therein and affirming it as to the persons denied by said decision.

Inasmuch as the persons included in this case were never upon the approved rolls no certificates of allotment were issued to them. Contests were filed by them, but were dismissed after the action of the Department in denying their applications.

I have further to report that it does not appear from the records of this office that any attempt was made, directly or indirectly, to give the above named applicants notice of the proceedings looking to the rescinding of the decision of the Secretary of the Interior in their case.

Inasmuch as the record in this case is very full and complete, and it is believed that the applicants could not

Secretary 15

add anything thereto, this office has not forwarded to them notices as referred to in Departmental letter of March 15, 1909, relative to applications for restoration to citizenship status in the Five Civilized Tribes, and will withhold such action unless it is the wish of the Department that the same should be furnished these applicants.

However, if it is desired that the notices be forwarded, or if it is the wish of the Department that the parties applicant in cases of this character should be notified to have their attorneys submit written argument as to their contention that their case falls within the principles of the opinion of the Supreme Court in the Goldsby and Allison cases, this office will proceed to notify the applicants to this effect immediately upon their receipt of advice from the Department, and will make supplemental report after their replies have been received.

Respectfully,

Commissioner.

Through the Commissioner
of Indian Affairs.

AB

1-33365

(COPY)

98069

Land
29295-1909.

J E D.

July 26, 1909.

Enrollment case of
Mattie Shockley et al.

The Honorable,

The Secretary of the Interior.

Sir:

Referring to Department letter of May 12, 1909 (File 5-51), there is transmitted herewith a report of April 14, 1909, from the Commissioner to the Five Civilized Tribes relative to the Choctaw enrollment case of Mattie Shockley et al.

The Office is of the opinion that in view of the Department action of August 15, 1907, in the case of Serena Bullocks and others, the decision of the Department dated January 9, 1907, affirming the decision of the Commissioner to the Five Civilized Tribes of March 19, 1906, in favor of the enrollment of John E., Ephriam E., Mattie Leverett, Elva May, Charles L., Albert, Hurman, Mamie, Albert R., and Albert P. Shockley, and Lulu, Roy, Marie, and Corine West, as Choctaw citizens by blood, and of Mattie Osborne, and Ava, Callie, and Pauline Shockley as citizens of the Choctaw Nation by marriage, constituted in legal effect an enrollment of those persons, and that they thereby acquired the rights of Choctaw citizens. The Office does not believe, in view of the principles announced by the Supreme Court of the United States in its decision of

L.-29295-2.

November 30, 1908, in the Goldsby case (211 U. S., 249), that it was within the authority of the Department to withdraw, rescind, or revoke its decision, or to take any other action to deprive these claimants named above of the rights acquired by them, without giving them notice and affording them an opportunity to be heard. The Office is therefore of the opinion that the Department action of February 23, 26, and 27, 1907 adverse to the applicants named, and its action disapproving the roll schedule upon which their names appeared is, so far as the above-named applicants are concerned, void as without authority of law.

It is therefore recommended that the Department disapproval placed upon the rolls containing their names opposite No. 16160 to 16174, inclusive, on the roll of citizens of the Choctaw Nation by blood, and opposite No. 1646 to No. 1649, inclusive on the roll of intermarried citizens be cancelled therefrom, and that there be placed on said rolls for the signature of the Secretary of the Interior a notation as follows:

"Enrollment approved by the First Assistant Secretary, Department of the Interior, January 9, 1907 (I. T.D. No. 25864, 1906). I hereby certify that the above notation of enrollment is correct as shown by the records of the Interior Department."

It does not appear that the Department ever rendered any decision in favor of the enrollment of Felix K. West, Izora Shockley, Lenora, Trevor M., Ludie F., and William Leslie Parker, or Ethel, Flassa and Herbert E. Shockley, the other applicants

L-29295-3.

in the case of Mattie Shockley et al.

The Office therefore recommends that so far as they are concerned no action be taken by the Department looking to their enrollment.

The record in the case of Mattie Shockley et al was forwarded to the Department on January 15, 1907, and does not appear to have been returned. Other papers are inclosed.

Very respectfully,

(Signed) F. H. Abbott,
Acting Commissioner.

TFM-20.

1-33368

98069

(COPY)

Land
29295-1909.

July 26, 1909.

J E D.

Enrollment case of
Mattie Shockley et al.

The Honorable,

The Secretary of the Interior.

Sir:

Referring to Department letter of May 12, 1909 (File 5-51), there is transmitted herewith a report of April 14, 1909, from the Commissioner to the Five Civilized Tribes relative to the Choctaw enrollment case of Mattie Shockley et al.

The Office is of the opinion that in view of the Department action of August 15, 1907, in the case of Serena Bullocks and others, the decision of the Department dated January 9, 1907, affirming the decision of the Commissioner to the Five Civilized Tribes of March 19, 1906, in favor of the enrollment of John E., Ephriam E., Mattie Leverett, Elva May, Charles L., Albert, Hurman, Mamie, Albert R., and Albert P. Shockley, and Lulu, Roy, Marie, and Corine West, as Choctaw citizens by blood, and of Mattie Osborne, and Ava, Callie, and Pauline Shockley as citizens of the Choctaw Nation by marriage, constituted in legal effect an enrollment of those persons, and that they thereby acquired the rights of Choctaw citizens.

The Office does not believe, in view of the principles announced by the Supreme Court of the United States in its decision of

L.-29295-2.

November 30, 1906, in the Goldsby case (211 U. S., 249), that it was within the authority of the Department to withdraw, rescind, or reverse its decision, or to take any other action to deprive these claimants named above of the rights acquired by them, without giving them notice and affording them an opportunity to be heard. The Office is therefore of the opinion that the Department action of February 25, 26, and 27, 1907 adverse to the applicants named, and its action disapproving the roll schedule upon which their names appeared is, so far as the above-named applicants are concerned, void as without authority of law.

It is therefore recommended that the Department disapproval placed upon the rolls containing their names opposite No. 14160 to 14174, inclusive, on the roll of citizens of the Cheateau Nation by blood, and opposite No. 1446 to No. 1449, inclusive on the roll of intermarried citizens be cancelled therefrom, and that there be placed on said rolls for the signature of the Secretary of the Interior a notation as follows:

"Enrollment approved by the First Assistant Secretary, Department of the Interior, January 9, 1907 (L. F.D. No. 23064, 1906). I hereby certify that the above notation of enrollment is correct as shown by the records of the Interior Department."

It does not appear that the Department ever rendered any decision in favor of the enrollment of Felix K. Vest, Isora Shockley, Lemora, Trevor E., Lucie V., and William Leslie Parker, of Ethel, Frances and Herbert E. Shockley, the other applicants

L-29295-3.

in the case of Mattie Shockley et al.

The Office therefore recommends that so far as they are concerned no action be taken by the Department looking to their enrollment.

The record in the case of Mattie Shockley et al was forwarded to the Department on January 15, 1907, and does not appear to have been returned. Other papers are inclosed.

Very respectfully,

(Signed) F. H. Abbott,

Acting Commissioner.

TYM-20.

1-33368

98069

(COPY)

Land
29295-1909.

July 26, 1909.

J E D.

Enrollment case of
Mattie Shockley et al.

The Honorable,

The Secretary of the Interior.

Sir:

Referring to Department letter of May 12, 1909 (File 6-61), there is transmitted herewith a report of April 14, 1909, from the Commissioner to the Five Civilized Tribes relative to the Choctaw enrollment case of Mattie Shockley et al.

The Office is of the opinion that in view of the Department action of August 15, 1907, in the case of Serena Bullocks and others, the decision of the Department dated January 9, 1907, affirming the decision of the Commissioner to the Five Civilized Tribes of March 19, 1906, in favor of the enrollment of John E., Ephriam E., Mattie Leverett, Elva May, Charles L., Albert, Harman, Mamie, Albert R., and Albert P. Shockley, and Lulu, Roy, Marie, and Corine West, as Choctaw citizens by blood, and of Mattie Osborne, and Ava, Callie, and Pauline Shockley as citizens of the Choctaw Nation by marriage, constituted in legal effect an enrollment of these persons, and that they thereby acquired the rights of Choctaw citizens. The Office does not believe, in view of the principles announced by the Supreme Court of the United States in its decision of

L.-23292-2.

November 30, 1908, in the Goldsby case (211 U. S., 249), that it was within the authority of the Department to withdraw, rescind, or revoke its decision, or to take any other action to deprive these claimants named above of the rights acquired by them, without giving them notice and affording them an opportunity to be heard. The Office is therefore of the opinion that the Department action of February 23, 26, and 27, 1909 adverse to the applicants named, and its action disapproving the roll schedule upon which their names appeared is, so far as the above-named applicants are concerned, void as without authority of law.

It is therefore recommended that the Department disapproval placed upon the rolls containing their names opposite No. 16160 to 16174, inclusive, on the roll of citizens of the Choctaw Nation by blood, and opposite No. 1646 to No. 1649, inclusive on the roll of intermarried citizens be cancelled therefrom, and that there be placed on said rolls for the signature of the Secretary of the Interior a notation as follows:

"Enrollment approved by the First Assistant Secretary, Department of the Interior, January 9, 1909 (I. T.D. No. 25844, 1906). I hereby certify that the above notation of enrollment is correct as shown by the records of the Interior Department."

It does not appear that the Department ever rendered any decision in favor of the enrollment of Felix K. Vest, Isora Shockley, Lemora, Trevor M., Lodie F., and William Leslie Barker, of Ethel, Flacosse and Herbert E. Shockley, the other applicants

L-29293-3.

in the case of Mattie Shockley et al.

The Office therefore recommends that so far as they are concerned no action be taken by the Department looking to their enrollment.

The record in the case of Mattie Shockley et al was forwarded to the Department on January 18, 1907, and does not appear to have been returned. Other papers are inclosed.

Very respectfully,

(Signed) F. H. Abbott,
Acting Commissioner.

TW-35.

1-13366

(COPY)

98069

Land
29295-1909.

July 26, 1909.

J E D.

Enrollment case of
Mattie Shockley et al.

The Honorable,

The Secretary of the Interior.

Sir:

Referring to Department letter of May 12, 1909 (File 5-51), there is transmitted herewith a report of April 14, 1909, from the Commissioner to the Five Civilized Tribes relative to the Choctaw enrollment case of Mattie Shockley et al.

The Office is of the opinion that in view of the Department action of August 15, 1907, in the case of Serena Bullocks and others, the decision of the Department dated January 9, 1907, affirming the decision of the Commissioner to the Five Civilized Tribes of March 19, 1906, in favor of the enrollment of John E., Ephriam E., Mattie Leverett, Elva May, Charles L., Albert, Harman, Marie, Albert R., and Albert P. Shockley, and Lulu, Roy, Marie, and Gerine West, as Choctaw citizens by blood, and of Mattie Osborne, and Ava, Callie, and Pauline Shockley as citizens of the Choctaw Nation by marriage, constituted in legal effect an enrollment of these persons, and that they thereby acquired the rights of Choctaw citizens. The Office does not believe, in view of the principles announced by the Supreme Court of the United States in its decision of

L.-29893-2.

November 30, 1906, in the Goldsby case (211 U. S., 249), that it was within the authority of the Department to withdraw, rescind, or revoke its decision, or to take any other action to deprive these claimants named above of the rights acquired by them, without giving them notice and affording them an opportunity to be heard. The Office is therefore of the opinion that the Department action of February 23, 26, and 27, 1907 adverse to the applicants named, and its action disapproving the roll schedule upon which their names appeared is, so far as the above-named applicants are concerned, void as without authority of law.

It is therefore recommended that the Department disapproval placed upon the rolls containing their names opposite No. 16160 to 16174, inclusive, on the roll of citizens of the Choctaw Nation by blood, and opposite No. 1646 to No. 1649, inclusive on the roll of intermarried citizens be cancelled therefrom, and that there be placed on said rolls for the signature of the Secretary of the Interior a notation as follows:

"Enrollment approved by the First Assistant Secretary, Department of the Interior, January 9, 1907 (A. F. D. No. 25884, 1906). I hereby certify that the above notation of enrollment is correct as shown by the records of the Interior Department."

It does not appear that the Department ever rendered any decision in favor of the enrollment of Felix E. West, Laura Shackley, Lemora, Trevor W., Lodie V., and William Leslie Parker, of Ethel, Vianee and Herbert E. Shackley, the other applicants

L-29295-3.

in the case of Mattie Shockley et al.

The Office therefore recommends that so far as they are concerned no action be taken by the Department looking to their enrollment.

The record in the case of Mattie Shockley et al was forwarded to the Department on January 15, 1907, and does not appear to have been returned. Other papers are inclosed.

Very respectfully,

(Signed) F. A. Abbott,
Acting Commissioner.

TFH-20.

1-33365

(COPY)

98069

Land
29295-1909.

July 26, 1909.

J E D.

Enrollment case of
Mattie Shockley et al.

The Honorable,

The Secretary of the Interior.

Sir:

Referring to Department letter of May 12, 1909 (File 5-51), there is transmitted herewith a report of April 14, 1909, from the Commissioner to the Five Civilized Tribes relative to the Choctaw enrollment case of Mattie Shockley et al.

The Office is of the opinion that in view of the Department action of August 15, 1907, in the case of Serena Bullocks and others, the decision of the Department dated January 9, 1907, affirming the decision of the Commissioner to the Five Civilized Tribes of March 19, 1906, in favor of the enrollment of John E., Ephriam E., Mattie Leverett, Elva May, Charles E., Albert, Harman, Mamie, Albert R., and Albert F. Shockley, and Lulu, Roy, Marie, and Corine West, as Choctaw citizens by blood, and of Mattie Osborne, and Ava, Sallie, and Pauline Shockley as citizens of the Choctaw Nation by marriage, constituted in legal effect an enrollment of these persons, and that they thereby acquired the rights of Choctaw citizens. The Office does not believe, in view of the principles announced by the Supreme Court of the United States in its decision of

L.-29293-2.

November 30, 1906, in the Goldsby case (211 U. S., 249), that it was within the authority of the Department to withdraw, reconsider, or revoke its decision, or to take any other action to deprive these claimants named above of the rights acquired by them, without giving them notice and affording them an opportunity to be heard. The Office is therefore of the opinion that the Department action of February 23, 26, and 27, 1907 adverse to the applicants named, and its action disapproving the roll schedule upon which their names appeared is, so far as the above-named applicants are concerned, void as without authority of law.

It is therefore recommended that the Department disapproval placed upon the rolls containing their names opposite No. 16160 to 16174, inclusive, on the roll of citizens of the Chectaw Nation by blood, and opposite No. 1646 to No. 1649, inclusive on the roll of intermarried citizens be cancelled therefrom, and that there be placed on said rolls for the signature of the Secretary of the Interior a notation as follows:

"Enrollment approved by the First Assistant Secretary, Department of the Interior, January 9, 1907 (U. S. D. No. 25864, 1906). I hereby certify that the above notation of enrollment is correct as shown by the records of the Interior Department."

It does not appear that the Department ever rendered any decision in favor of the enrollment of Felix E. West, Isaac Shockley, Lemora, Trevor E., Leslie T., and William Leslie Parker, of Ethel, Flansee and Herbert E. Shockley, the other applicants

1-29203-3.

in the case of Mattie Checkley et al.

The Office therefore recommends that so far as they are concerned no action be taken by the Department looking to their enrollment.

The record in the case of Mattie Checkley et al was forwarded to the Department on January 13, 1907, and does not appear to have been returned. Other papers are inclosed.

Very respectfully,

(Signed) F. H. Abbott,

Acting Commissioner.

WFM-29.

1-53368

(copy)

90049

Land
29295-1909.

July 26, 1909.

J B D.

Enrollment case of
Mattie Shockley et al.

The Honorable,

The Secretary of the Interior.

Sir:

Referring to Department letter of May 12, 1909 (File 8-81), there is transmitted herewith a report of April 14, 1909, from the Commissioner to the Five Civilized Tribes relative to the Choctaw enrollment case of Mattie Shockley et al.

The Office is of the opinion that in view of the Department action of August 16, 1907, in the case of Serena Bullocks and others, the decision of the Department dated January 9, 1907, affirming the decision of the Commissioner to the Five Civilized Tribes of March 19, 1906, in favor of the enrollment of John H., Ephraim H., Mattie Leverett, Elva May, Charles L., Albert, Herman, Mamie, Albert R., and Albert F. Shockley, and Iulu, Roy, Marie, and Corine West, as Choctaw citizens by blood, and of Mattie Osborne, and Ava, Callie, and Pauline Shockley as citizens of the Choctaw Nation by marriage, constituted in legal effect an enrollment of these persons, and that they thereby acquired the rights of Choctaw citizens. The Office does not believe, in view of the principles announced by the Supreme Court of the United States in its decision of

L.-29295-2.

November 30, 1906, in the Goldsby case (211 U. S., 249), that it was within the authority of the Department to withdraw, rescind, or revoke its decision, or to take any other action to deprive these claimants named above of the rights acquired by them, without giving them notice and affording them an opportunity to be heard. The Office is therefore of the opinion that the Department action of February 23, 26, and 27, 1907 adverse to the applicants named, and its action disapproving the roll schedule upon which their names appeared is, so far as the above-named applicants are concerned, void as without authority of law.

It is therefore recommended that the Department disapproval placed upon the rolls containing their names opposite No. 16160 to 16174, inclusive, on the roll of citizens of the Cheataw Nation by blood, and opposite No. 1646 to No. 1649, inclusive on the roll of intermarried citizens be cancelled therefrom, and that there be placed on said rolls for the signature of the Secretary of the Interior a notation as follows:

"Enrollment approved by the First Assistant Secretary, Department of the Interior, January 9, 1907 (I. T.D. No. 25864, 1906). I hereby certify that the above notation of enrollment is correct as shown by the records of the Interior Department."

It does not appear that the Department ever rendered any decision in favor of the enrollment of Felix K. Vest, Isara Shockley, Louisa, Trevor M., Leslie F., and William Leslie Parker, or Ethel, Flossie and Herbert M. Shockley, the other applicants.

L-20275-3.

in the case of Mattie Shockley et al.

The Office therefore recommends that as far as they are concerned no action be taken by the Department looking to their enrollment.

The record in the case of Mattie Shockley et al was forwarded to the Department on January 18, 1907, and does not appear to have been returned. Other papers are inclosed.

Very respectfully,

(Signed) F. E. Abbott,
Acting Commissioner.

TYE-20.

1-33368

(COPY)

28069

La 4
29295-1909.

July 26, 1909.

J E D.

Enrollment case of
Wattie Shockley et al.

The Honorable,

The Secretary of the Interior.

Sir:

Referring to Department letter of May 12, 1909 (File 5-61), there is transmitted herewith a report of April 14, 1909, from the Commissioner to the Five Civilized Tribes relative to the Choctaw enrollment case of Wattie Shockley et al.

The Office is of the opinion that in view of the Department action of August 15, 1907, in the case of Serena Bullocks and others, the decision of the Department dated January 9, 1907, affirming the decision of the Commissioner to the Five Civilized Tribes of March 19, 1906, in favor of the enrollment of John E., Ephraim E., Wattie Leverett, Elva May, Charles L., Albert, Herman, Mamie, Albert R., and Albert P. Shockley, and Lula, May, Marie, and Corine Vest, as Choctaw citizens by blood, and of Wattie Osborne, and Ava, Callie, and Pauline Shockley as citizens of the Choctaw Nation by marriage, constituted in legal effect an enrollment of these persons, and that they thereby acquired the rights of Choctaw citizens. The Office does not believe, in view of the principles announced by the Supreme Court of the United States in its decision of

L.-29295-2.

November 30, 1906, in the Goldsby case (211 U. S., 249), that it was within the authority of the Department to withdraw, rescind, or revoke its decision, or to take any other action to deprive these claimants named above of the rights acquired by them, without giving them notice and affording them an opportunity to be heard. The Office is therefore of the opinion that the Department action of February 23, 26, and 27, 1907 adverse to the applicants named, and its action disapproving the roll schedule upon which their names appeared is, as far as the above-named applicants are concerned, void as without authority of law.

It is therefore recommended that the Department disapproval placed upon the rolls containing their names opposite No. 16160 to 16174, inclusive, on the roll of citizens of the Cheataw Nation by blood, and opposite No. 1646 to No. 1649, inclusive on the roll of intermarried citizens be cancelled therefrom, and that there be placed on said rolls for the signature of the Secretary of the Interior a notation as follows:

"Enrollment approved by the First Assistant Secretary, Department of the Interior, January 9, 1907 (I. T. D. No. 25844, 1906). I hereby certify that the above notation of enrollment is correct as shown by the records of the Interior Department."

It does not appear that the Department ever rendered any decision in favor of the enrollment of Felix K. West, Laura Shockey, Lenora, Trevor W., Lucie V., and William Leslie Parker, of Ethel, Florence and Herbert M. Shockey, the other applicants.

L-10200-1.

In the case of Mattie Hockley et al.

The Office therefore recommends that so far as they are concerned no action be taken by the Department looking to their enrollment.

The record in the case of Mattie Hockley et al was forwarded to the Department on January 15, 1907, and does not appear to have been returned. Other papers are inclosed.

Very respectfully,

(Signed) F. H. Abbott,

Acting Commissioner.

175-20.

1-33368

90069

(COPY)

Land
29895-1909.

July 25, 1909.

J E D.

Enrollment case of
Mattie Shockley et al.

The Honorable,

The Secretary of the Interior.

Sir:

Referring to Department letter of May 12, 1909 (File 6-51), there is transmitted herewith a report of April 14, 1909, from the Commissioner to the Five Civilized Tribes relative to the Choctaw enrollment case of Mattie Shockley et al.

The Office is of the opinion that in view of the Department action of August 15, 1907, in the case of Weyena Mullaoka and others, the decision of the Department dated January 9, 1907, affirming the decision of the Commissioner to the Five Civilized Tribes of March 19, 1906, in favor of the enrollment of John M., Ephraim E., Mattie Leverett, Elva May, Charles L., Albert, Herman, Wm. A., Albert R., and Albert F. Shockley, and Lela, Roy, Marie, and Corina West, as Choctaw citizens by blood, and of Mattie Osborne, and Ava, Callie, and Pauline Shockley as citizens of the Choctaw Nation by marriage, constituted in legal effect an enrollment of these persons, and that they thereby acquired the rights of Choctaw citizens. The Office does not believe, in view of the principles announced by the Supreme Court of the United States in its decision of

L.-29295-2,

November 30, 1906, in the Goldsby case (211 U. S., 249), that it was within the authority of the Department to withdraw, rescind, or revoke its decision, or to take any other action to deprive these claimants named above of the rights acquired by them, without giving them notice and affording them an opportunity to be heard. The Office is therefore of the opinion that the Department action of February 23, 26, and 27, 1907 adverse to the applicants named, and its action disapproving the roll schedule upon which their names appeared is, so far as the above-named applicants are concerned, void as without authority of law.

It is therefore recommended that the Department disapproval placed upon the rolls containing their names opposite No. 16160 to 16174, inclusive, on the roll of citizens of the Cheetaw Nation by blood, and opposite No. 1646 to No. 1649, inclusive on the roll of intermarried citizens be cancelled therefrom, and that there be placed on said rolls for the signature of the Secretary of the Interior a notation as follows:

"Enrollment approved by the First Assistant Secretary, Department of the Interior, January 9, 1907 (L. T.D. No. 25564, 1906). I hereby certify that the above notation of enrollment is correct as shown by the records of the Interior Department."

It does not appear that the Department ever rendered any decision in favor of the enrollment of Felix K. West, Laura Shockley, Lemora, Trevor M., Louis P., and William Leslie Parker, or Ethel, Flossie and Herbert E. Shockley, the other applicants

L-24223-1.

in the case of Mattie Shockley et al.

The Office therefore recommends that as far as they are concerned no action be taken by the Department looking to their enrollment.

The record in the case of Mattie Shockley et al was forwarded to the Department on January 18, 1907, and does not appear to have been returned. Other papers are inclosed.

Very respectfully,

(Signed) F. H. Abbott,
Acting Commissioner.

FTW-20.

1-33366

(COPY)

28069

Land
29296-1909.

J N D.

July 26, 1909.

Enrollment case of
Mattie Shockley et al.

The Honorable,

The Secretary of the Interior.

Sir:

Referring to Department letter of May 12, 1909 (File 8-81), there is transmitted herewith a report of April 14, 1909, from the Commissioner to the Five Civilized Tribes relative to the Choctaw enrollment case of Mattie Shockley et al.

The Office is of the opinion that in view of the Department action of August 15, 1907, in the case of Serena Bullocks and others, the decision of the Department dated January 9, 1907, affirming the decision of the Commissioner to the Five Civilized Tribes of March 19, 1906, in favor of the enrollment of John L., Ephriam E., Mattie Leverett, Miva May, Charles L., Albert, Eurban, Marie, Albert E., and Albert P. Shockley, and Lulu, Ray, Marie, and Corine Vest, as Choctaw citizens by blood, and of Mattie Osborne, and Ava, Callie, and Pauline Shockley as citizens of the Choctaw Nation by marriage, constituted in legal effect an enrollment of these persons, and that they thereby acquired the rights of Choctaw citizens. The Office does not believe, in view of the principles announced by the Supreme Court of the United States in its decision of

L.-29295-2.

November 30, 1908, in the Goldsby case (211 U. S., 249), that it was within the authority of the Department to withdraw, rescind, or revoke its decision, or to take any other action to deprive these claimants named above of the rights acquired by them, without giving them notice and affording them an opportunity to be heard. The Office is therefore of the opinion that the Department action of February 23, 26, and 27, 1907 adverse to the applicants named, and its action disapproving the roll schedule upon which their names appeared is, so far as the above-named applicants are concerned, void as without authority of law.

It is therefore recommended that the Department disapproval placed upon the rolls containing their names opposite No. 16160 to 16174, inclusive, on the roll of citizens of the Choctaw Nation by blood, and opposite No. 1646 to No. 1649, inclusive on the roll of intermarried citizens be cancelled therefrom, and that there be placed on said rolls for the signature of the Secretary of the Interior a notation as follows:

"Enrollment approved by the First Assistant Secretary, Department of the Interior, January 9, 1907 (I. T.D. No. 25864, 1906). I hereby certify that the above notation of enrollment is correct as shown by the records of the Interior Department."

It does not appear that the Department ever rendered any decision in favor of the enrollment of Felix K. West, Inera Sheekley, Lenora, Trevor M., Ludis P., and William Leslie Parker, of Ethel, Flossie and Herbert E. Sheekley, the other applicants

L-27273-1.

in the case of Mattie Shockley et al.

The Office therefore recommends that so far as they are concerned no action be taken by the Department looking to their enrollment.

The record in the case of Mattie Shockley et al was forwarded to the Department on January 18, 1937, and does not appear to have been returned. Other papers are inclosed.

Very respectfully,

(Signed) F. E. Abbott,
Acting Commissioner.

TFM-30.

1-33365

(COPY)

38069

Land
29295-1909.

July 26, 1909.

J E D.

Enrollment case of
Wattie Shockley et al.

The Honorable,

The Secretary of the Interior.

Sir:

Referring to Department letter of May 12, 1909 (File 5-51), there is transmitted herewith a report of April 14, 1909, from the Commissioner to the Five Civilized Tribes relative to the Choctaw enrollment case of Wattie Shockley et al.

The Office is of the opinion that in view of the Department action of August 15, 1907, in the case of Serena Bullocks and others, the decision of the Department dated January 9, 1907, affirming the decision of the Commissioner to the Five Civilized Tribes of March 19, 1906, in favor of the enrollment of John A., Ephraim E., Mattie Leverett, Elva May, Charles L., Albert, Herman, Marie, Albert R., and Albert P. Shockley, and Lulu, Ray, Marie, and Corine West, as Choctaw citizens by blood, and of Mattie Osborne, and Ava, Callie, and Pauline Shockley as citizens of the Choctaw Nation by marriage, constituted in legal effect an enrollment of those persons, and that they thereby acquired the rights of Choctaw citizens. The Office does not believe, in view of the principles announced by the Supreme Court of the United States in its decision of

L.-29295-2.

November 30, 1908, in the Geldsby case (211 U. S., 249), that it was within the authority of the Department to withdraw, rescind, or revoke its decision, or to take any other action to deprive these claimants named above of the rights acquired by them, without giving them notice and affording them an opportunity to be heard. The Office is therefore of the opinion that the Department action of February 23, 26, and 27, 1907 adverse to the applicants named, and its action disapproving the roll schedule upon which their names appeared is, so far as the above-named applicants are concerned, void as without authority of law.

It is therefore recommended that the Department disapproval placed upon the rolls containing their names opposite No. 16160 to 16174, inclusive, on the roll of citizens of the Choctaw Nation by blood, and opposite No. 1646 to No. 1649, inclusive on the roll of intermarried citizens be cancelled therefrom, and that there be placed on said rolls for the signature of the Secretary of the Interior a notation as follows:

"Enrollment approved by the First Assistant Secretary, Department of the Interior, January 9, 1907 (I. T.D. No. 25864, 1906). I hereby certify that the above notation of enrollment is correct as shown by the records of the Interior Department."

It does not appear that the Department ever rendered any decision in favor of the enrollment of Felix K. West, Isora Shockley, Lenora, Trevor M., Ludie F., and William Leslie Parker, of Ethel, Frances and Herbert E. Shockley, the other applicants.

1-2555-1.

in the case of Mattie Shockley et al.

The Office therefore recommends that so far as they are concerned no action be taken by the Department looking to their enrollment.

The record in the case of Mattie Shockley et al was forwarded to the Department on January 15, 1907, and does not appear to have been returned. Other papers are inclosed.

Very respectfully,

(Signed) T. E. Abbott,
Acting Commissioner.

TYM-00.

1-33365

Land
29295-1909.
J. E. D.

(COPY)

98069

Enrollment case of
Mattie Shockley et al.

July 26, 1909.

The Honorable,

The Secretary of the Interior.

Sir:

Referring to Department letter of May 12, 1909 (File 5-51), there is transmitted herewith a report of April 14, 1909, from the Commissioner to the Five Civilized Tribes relative to the Choctaw enrollment case of Mattie Shockley et al.

The Office is of the opinion that in view of the Department action of August 15, 1907, in the case of Serena Bullocks and others, the decision of the Department dated January 9, 1907, affirming the decision of the Commissioner to the Five Civilized Tribes of March 19, 1906, in favor of the enrollment of John E., Ephriam E., Mattie, Leverett, Elva May, Charles L., Albert, Hurman, Mamie, Albert R., and Albert P. Shockley, and Lulu, Roy, Marie, and Corine West, as Choctaw citizens by blood, and of Mattie Osborne, and Ava, Callie, and Pauline Shockley as citizens of the Choctaw Nation by marriage, constituted in legal effect an enrollment of those persons, and that they thereby acquired the rights of Choctaw citizens. The Office does not believe, in view of the principles announced by the Supreme Court of the United States in its decision of November 30, 1908, in the Goldsby case (211 U. S., 249), that

L-29295-2.

it was within the authority of the Department to withdraw, rescind, or revoke its decision, or to take any other action to deprive these claimants named above of the rights acquired by them, without giving them notice and affording them an opportunity to be heard. The Office is therefore of the opinion that the Department action of February 23, 26, and 27, 1907 adverse to the applicants named, and its action disapproving the roll schedule upon which their names appeared is, so far as the above named applicants are concerned, void as without authority of law.

It is therefore recommended that the Department disapproval placed upon the rolls containing their names opposite No. 16160 to 16174, inclusive, on the roll of citizens of the Choctaw Nation by blood, and opposite No. 1646 to No. 1649, inclusive on the roll of intermarried citizens be cancelled therefrom, and that there be placed on said rolls for the signature of the Secretary of the Interior a notation as follows:

"Enrollment approved by the First Assistant Secretary, Department of the Interior, January 9, 1907 (I. T. D. No. 25864, 1906). I hereby certify that the above notation of enrollment is correct as shown by the records of the Interior Department."

It does not appear that the Department ever rendered any decision in favor of the enrollment of Felix K. West, Elzora Shockley, Lenora, Trevor M., Ludie F., and William Leslie Parker, or Ethel, Plasse and Herbert E. Shockley, the other applicants in the case of Mattie Shockley et al.

The Office therefore recommends that so far as they are concerned no action be taken by the Department looking to their enrollment.

The record in the case of Mattie Shookley et al was forwarded to the Department on January 15, 1907, and does not appear to have been returned. Other papers are inclosed.

Very respectfully,

(Signed) F. H. Abbott,
Acting Commissioner.

TFX-20.

1-35365

Land
29295-1909.
J E. D.

(COPY)

98069

Enrollment case of
Mattie Shockley et al.

July 25, 1909.

The Honorable,

The Secretary of the Interior.

Sir:

Referring to Department letter of May 12, 1909 (File 6-51), there is transmitted herewith a report of April 14, 1909, from the Commissioner to the Five Civilized Tribes relative to the Choctaw enrollment case of Mattie Shockley et al.

The Office is of the opinion that in view of the Department action of August 15, 1907, in the case of Serena Bullocks and others, the decision of the Department dated January 9, 1907, affirming the decision of the Commissioner to the Five Civilized Tribes of March 19, 1906, in favor of the enrollment of John E., Ephriam E., Mattie, Leverett, Elva May, Charles L., Albert, Hurman, Mamie, Albert R., and Albert P. Shockley, and Lulu, Roy, Marie, and Corine West, as Choctaw citizens by blood, and of Mattie Osborns, and Ava, Callie, and Pauline Shockley as citizens of the Choctaw Nation by marriage, constituted in legal effect an enrollment of those persons, and that they thereby acquired the rights of Choctaw citizens. The Office does not believe, in view of the principles announced by the Supreme Court of the United States in its decision of November 30, 1908, in the Goldsby case (211 U. S., 249), that

L-29295-2.

it was within the authority of the Department to withdraw, rescind, or revoke its decision, or to take any other action to deprive these claimants named above of the rights acquired by them, without giving them notice and affording them an opportunity to be heard. The Office is therefore of the opinion that the Department action of February 23, 26, and 27, 1907 adverse to the applicants named, and its action disapproving the roll schedule upon which their names appeared is, so far as the above named applicants are concerned, void as without authority of law.

It is therefore recommended that the Department disapproval placed upon the rolls containing their names opposite No. 16160 to 16174, inclusive, on the roll of citizens of the Choctaw Nation by blood, and opposite No. 1646 to No. 1649, inclusive on the roll of intermarried citizens be cancelled therefrom, and that there be placed on said rolls for the signature of the Secretary of the Interior a notation as follows:

"Enrollment approved by the First Assistant Secretary, Department of the Interior, January 9, 1907 (I. T. D. No. 25864, 1906). I hereby certify that the above notation of enrollment is correct as shown by the records of the Interior Department."

It does not appear that the Department ever rendered any decision in favor of the enrollment of Felix K. West, Elzora Shockley, Lenora, Trevor M., Ludie P., and William Leslie Parker, or Ethel, Flossie and Herbert E. Shockley, the other applicants in the case of Mattie Shockley et al.

The Office therefore recommends that so far as they are concerned no action be taken by the Department looking to their enrollment.

The record in the case of Mattie Shockley et al was forwarded to the Department on January 15, 1907, and does not appear to have been returned. Other papers are inclosed.

Very respectfully,

(Signed) F. H. Abbott,
Acting Commissioner.

1-35368

Land
29295-1909.
J. E. D.

(COPY)

98069

Enrollment case of
Mattie Shockley et al.

July 26, 1909.

The Honorable,

The Secretary of the Interior.

Sir:

Referring to Department letter of May 12, 1909 (File 5-51), there is transmitted herewith a report of April 14, 1909, from the Commissioner to the Five Civilized Tribes relative to the Choctaw enrollment case of Mattie Shockley et al.

The Office is of the opinion that in view of the Department action of August 15, 1907, in the case of Serena Bullocks and others, the decision of the Department dated January 9, 1907, affirming the decision of the Commissioner to the Five Civilized Tribes of March 19, 1906, in favor of the enrollment of John E., Ephriam E., Mattie, Leverett, Elva May, Charles L., Albert, Herman, Mamie, Albert R., and Albert F. Shockley, and Lulu, Roy, Marie, and Corine West, as Choctaw citizens by blood, and of Mattie Osborne, and Ava, Callie, and Pauline Shockley as citizens of the Choctaw Nation by marriage, constituted in legal effect an enrollment of those persons, and that they thereby acquired the rights of Choctaw citizens. The Office does not believe, in view of the principles announced by the Supreme Court of the United States in its decision of November 30, 1908, in the Goldsby case (211 U. S., 249), that

L-29295-2.

it was within the authority of the Department to withdraw, rescind, or revoke its decision, or to take any other action to deprive these claimants named above of the rights acquired by them, without giving them notice and affording them an opportunity to be heard. The Office is therefore of the opinion that the Department action of February 23, 26, and 27, 1907 adverse to the applicants named, and its action disapproving the roll schedule upon which their names appeared is, so far as the above named applicants are concerned, void as without authority of law.

It is therefore recommended that the Department disapproval placed upon the rolls containing their names opposite No. 16160 to 16174, inclusive, on the roll of citizens of the Cheetz Nation by blood, and opposite No. 1646 to No. 1649, inclusive on the roll of intermarried citizens be cancelled therefrom, and that there be placed on said rolls for the signature of the Secretary of the Interior a notation as follows:

"Enrollment approved by the First Assistant Secretary, Department of the Interior, January 9, 1907 (I. T. D. No. 28864, 1906). I hereby certify that the above notation of enrollment is correct as shown by the records of the Interior Department."

It does not appear that the Department ever rendered any decision in favor of the enrollment of Felix K. West, Elmera Shockley, Lenora, Trevor M., Ludie Y., and William Leslie Parker, or Ethel, Flasser and Herbert E. Shockley, the other applicants in the case of Mattie Shockley et al.

The Office therefore recommends that so far as they are concerned no action be taken by the Department looking to their enrollment.

The record in the case of Mattie Shackley et al was forwarded to the Department on January 15, 1907, and does not appear to have been returned. Other papers are inclosed.

Very respectfully,

(Signed) F. H. Abbott,
Acting Commissioner.

117-20.

1-35345

Land
29295-1909.
J. E. D.

(copy)
28069

Enrollment case of
Wattie Shookley et al.

July 26, 1909.

The Honorable,

The Secretary of the Interior.

Sir:

Referring to Department letter of May 12, 1909 (File 5-51), there is transmitted herewith a report of April 14, 1909, from the Commissioner to the Five Civilized Tribes relative to the Choctaw enrollment case of Wattie Shookley et al.

The Office is of the opinion that in view of the Department action of August 15, 1907, in the case of Berema Bullocks and others, the decision of the Department dated January 9, 1907, affirming the decision of the Commissioner to the Five Civilized Tribes of March 19, 1906, in favor of the enrollment of John E., Ephriam E., Mattie, Leverett, Klva May, Charles L., Albert, Harman, Mamie, Albert E., and Albert P. Shookley, and Lulu, Roy, Marie, and Corine West, as Choctaw citizens by blood, and of Mattie Osborne, and Ava, Callie, and Pauline Shookley as citizens of the Choctaw Nation by marriage, constituted in legal effect an enrollment of these persons, and that they thereby acquired the rights of Choctaw citizens. The Office does not believe, in view of the principles announced by the Supreme Court of the United States in its decision of November 30, 1908, in the Goldsby case (211 U. S., 249), that

L-29298-2.

it was within the authority of the Department to withdraw, rescind, or revoke its decision, or to take any other action to deprive these claimants named above of the rights acquired by them, without giving them notice and affording them an opportunity to be heard. The Office is therefore of the opinion that the Department action of February 23, 25, and 27, 1907 adverse to the applicants named, and its action disapproving the roll schedule upon which their names appeared is, so far as the above named applicants are concerned, void as without authority of law.

It is therefore recommended that the Department disapproval placed upon the rolls containing their names opposite No. 16160 to 16174, inclusive, on the roll of citizens of the Choctaw Nation by blood, and opposite No. 1646 to No. 1649, inclusive on the roll of intermarried citizens be cancelled therefrom, and that there be placed on said rolls for the signature of the Secretary of the Interior a notation as follows:

"Enrollment approved by the First Assistant Secretary, Department of the Interior, January 9, 1907 (I. T. D. No. 25864, 1906). I hereby certify that the above notation of enrollment is correct as shown by the records of the Interior Department."

It does not appear that the Department ever rendered any decision in favor of the enrollment of Felix K. West, Elzora Shookley, Lenora, Trevor M., Lucie W., and William Lealie Parker, or Ethel, Flossie and Herbert E. Shookley, the other applicants in the case of Mattie Shookley et al.

The Office therefore recommends that so far as they are concerned no action be taken by the Department looking to their enrollment.

The record in the case of Mattie Shockley et al was forwarded to the Department on January 13, 1907, and does not appear to have been returned. Other papers are inclosed.

Very respectfully,

(Signed) F. H. Abbott,
Acting Commissioner.

177-20.

1-35265

Land
28285-1909.
J. E. D.

(COPY)

28059

Enrollment case of
Wattie Shockley et al.

July 26, 1909.

The Honorable,

The Secretary of the Interior.

Sir:

Referring to Department letter of May 12, 1909 (File 5-51), there is transmitted herewith a report of April 14, 1909, from the Commissioner to the Five Civilized Tribes relative to the Choctaw enrollment case of Wattie Shockley et al.

The Office is of the opinion that in view of the Department action of August 16, 1907, in the case of Serena Bullocks and others, the decision of the Department dated January 9, 1907, affirming the decision of the Commissioner to the Five Civilized Tribes of March 19, 1906, in favor of the enrollment of John E., Ephraim E., Wattie, Leverett, Elva May, Charles L., Albert, Harman, Mamie, Albert E., and Albert F. Shockley, and Lulu, Roy, Marie, and Gerina Vest, as Choctaw citizens by blood, and of Wattie Osborne, and Ava, Callie, and Pauline Shockley as citizens of the Choctaw Nation by marriage, constituted in legal effect an enrollment of these persons, and that they thereby acquired the rights of Choctaw citizens. The Office does not believe, in view of the principles announced by the Supreme Court of the United States in its decision of November 30, 1906, in the Goldsby case (211 U. S., 349), that

L-29298-2.

it was within the authority of the Department to withdraw, rescind, or reverse its decision, or to take any other action to deprive these claimants named above of the rights acquired by them, without giving them notice and affording them an opportunity to be heard. The Office is therefore of the opinion that the Department action of February 23, 26, and 27, 1907 adverse to the applicants named, and its action disapproving the roll schedule upon which their names appeared is, so far as the above named applicants are concerned, void as without authority of law.

It is therefore recommended that the Department disapproval placed upon the rolls containing their names opposite No. 16160 to 16174, inclusive, on the roll of citizens of the Choctaw Nation by blood, and opposite No. 1646 to No. 1649, inclusive on the roll of intermarried citizens be cancelled therefore, and that there be placed on said rolls for the signature of the Secretary of the Interior a notation as follows:

"Enrollment approved by the First Assistant Secretary, Department of the Interior, January 9, 1907 (I. T. D. No. 25364, 1906). I hereby certify that the above notation of enrollment is correct as shown by the records of the Interior Department."

It does not appear that the Department ever rendered any decision in favor of the enrollment of Felix K. Vest, Elmera Shuckley, Lenora, Trevor M., Ludie P., and William Leslie Parker, or Ethel, Flossie and Herbert E. Shuckley, the other applicants in the case of Mattie Shuckley et al.

The Office therefore recommends that so far as they are concerned no action be taken by the Department looking to their enrollment.

The record in the case of Mattie Shockley et al was forwarded to the Department on January 18, 1907, and does not appear to have been returned. Other papers are inclosed.

Very respectfully,

(Signed) F. H. Abnett,
Acting Commissioner.

YED-20.

1-10365

Land
29295-1909.
J. E. D.

(COPY)

95069

Enrollment case of
Mattie Shockley et al.

July 26, 1909.

The Honorable,

The Secretary of the Interior.

Sir:

Referring to Department letter of May 12, 1909 (File 5-51), there is transmitted herewith a report of April 14, 1909, from the Commissioner to the Five Civilized Tribes relative to the Choctaw enrollment case of Mattie Shockley et al.

The Office is of the opinion that in view of the Department action of August 15, 1907, in the case of Serena Bullocks and others, the decision of the Department dated January 9, 1907, affirming the decision of the Commissioner to the Five Civilized Tribes of March 19, 1906, in favor of the enrollment of John F., Ephraim E., Mattie, Leverett, Elva May, Charles L., Albert, Herman, Mamie, Albert R., and Albert P. Shockley, and Lulu, Roy, Marie, and Gerine West, as Choctaw citizens by blood, and of Mattie Osborne, and Ava, Callie, and Pauline Shockley as citizens of the Choctaw Nation by marriage, constituted in legal effect an enrollment of those persons, and that they thereby acquired the rights of Choctaw citizens. The Office does not believe, in view of the principles announced by the Supreme Court of the United States in its decision of November 30, 1906, in the Galatzky case (211 U. S., 249), that

L-29295-2.

It was within the authority of the Department to withdraw, rescind, or revoke its decision, or to take any other action to deprive these claimants named above of the rights acquired by them, without giving them notice and affording them an opportunity to be heard. The Office is therefore of the opinion that the Department action of February 23, 26, and 27, 1907 adverse to the applicants named, and its action disapproving the roll schedule upon which their names appeared is, so far as the above named applicants are concerned, void as without authority of law.

It is therefore recommended that the Department disapproval placed upon the rolls containing their names opposite No. 16160 to 16174, inclusive, on the roll of citizens of the Choctaw Nation by blood, and opposite No. 1646 to No. 1649, inclusive on the roll of intermarried citizens be cancelled therefrom, and that there be placed on said rolls for the signature of the Secretary of the Interior a notation as follows:

"Enrollment approved by the First Assistant Secretary, Department of the Interior, January 9, 1907 (I. T. D. No. 28864, 1906). I hereby certify that the above notation of enrollment is correct as shown by the records of the Interior Department."

It does not appear that the Department ever rendered any decision in favor of the enrollment of Felix K. Vest, Elzora Shockley, Lemora, Trevor H., Lucie W., and William Lealie Parker, or Ethel, Flossie and Herbert E. Shockley, the other applicants in the case of Mattie Shockley et al.

The Office therefore recommends that so far as they are concerned no action be taken by the Department looking to their enrollment.

The record in the case of Mattie Sheekley et al was forwarded to the Department on January 15, 1907, and does not appear to have been returned. Other papers are inclosed.

Very respectfully,

(Signed) F. M. Abbott,
Acting Commissioner.

EYE-20.

Land
29296-1909.
J. E. D.

(COPY)
35069

Enrollment case of
Mattie Shockley et al.

July 26, 1909.

The Honorable,

The Secretary of the Interior.

Sir:

Referring to Department letter of May 12, 1909 (File 6-51), there is transmitted herewith a report of April 14, 1909, from the Commissioner to the Five Civilized Tribes relative to the Choctaw enrollment case of Mattie Shockley et al.

The Office is of the opinion that in view of the Department action of August 16, 1907, in the case of Serena Bullocks and others, the decision of the Department dated January 9, 1907, affirming the decision of the Commissioner to the Five Civilized Tribes of March 19, 1906, in favor of the enrollment of John E., Ephraim E., Mattie, Leverett, Elva May, Charles L., Albert, Herman, Mamie, Albert E., and Albert F. Shockley, and Lula, May, Marie, and Corine West, as Choctaw citizens by blood, and of Mattie Osborne, and Ava, Callie, and Pauline Shockley as citizens of the Choctaw Nation by marriage, constituted in legal effect an enrollment of these persons, and that they thereby acquired the rights of Choctaw citizens. The Office does not believe, in view of the principles announced by the Supreme Court of the United States in its decision of November 30, 1906, in the Gohinky case (211 U. S., 249), that

L-20295-2.

it was within the authority of the Department to withdraw, rescind, or revoke its decision, or to take any other action to deprive these claimants named above of the rights acquired by them, without giving them notice and affording them an opportunity to be heard. The Office is therefore of the opinion that the Department action of February 25, 26, and 27, 1907 adverse to the applicants named, and its action disapproving the roll schedule upon which their names appeared is, so far as the above named applicants are concerned, void as without authority of law.

It is therefore recommended that the Department disapproval placed upon the rolls containing their names opposite No. 16166 to 16174, inclusive, on the roll of citizens of the Choctaw Nation by blood, and opposite No. 1646 to No. 1649, inclusive on the roll of intermarried citizens be cancelled therefrom, and that there be placed on said rolls for the signature of the Secretary of the Interior a notation as follows:

"Enrollment approved by the First Assistant Secretary, Department of the Interior, January 9, 1907 (I. T. D. No. 26666, 1906). I hereby certify that the above notation of enrollment is correct as shown by the records of the Interior Department."

It does not appear that the Department ever rendered any decision in favor of the enrollment of Felix E. West, Elzora Shockley, Lemora, Trevor W., Leslie F., and William Leslie Parker, or Ethel, Flascoe and Herbert E. Shockley, the other applicants in the case of Mattie Shockley et al.

The Office therefore recommends that so far as they are concerned no action be taken by the Department looking to their enrollment.

The record in the case of Mattie Sheekley et al was forwarded to the Department on January 15, 1907, and does not appear to have been returned. Other papers are inclosed.

Very respectfully,

(Signed) F. E. Abbott,
Acting Commissioner.

127-20.

1-35348

Land
29298-1909.
J. E. D.

(COPY)

98069

Enrollment case of
Mattie Shockley et al.

July 26, 1909.

The Honorable,

The Secretary of the Interior.

Sir:

Referring to Department letter of May 12, 1909 (File 8-31), there is transmitted herewith a report of April 14, 1909, from the Commissioner to the Five Civilized Tribes relative to the Choctaw enrollment case of Mattie Shockley et al.

The Office is of the opinion that in view of the Department action of August 15, 1907, in the case of Serena Bullocks and others, the decision of the Department dated January 9, 1907, affirming the decision of the Commissioner to the Five Civilized Tribes of March 19, 1906, in favor of the enrollment of John E., Ephraim E., Mattie, Leverett, Elva May, Charles L., Albert, Herman, Wamie, Albert E., and Albert F. Shockley, and Lulu, Roy, Marie, and Gerine West, as Choctaw citizens by blood, and of Mattie Osborne, and Ava, Callie, and Pauline Shockley as citizens of the Choctaw Nation by marriage, constituted in legal effect an enrollment of those persons, and that they thereby acquired the rights of Choctaw citizens. The Office does not believe, in view of the principles announced by the Supreme Court of the United States in its decision of November 30, 1908, in the Goldsby case (211 U. S., 249), that

L-29896-2.

it was within the authority of the Department to withdraw, rescind, or revoke its decision, or to take any other action to deprive these claimants named above of the rights acquired by them, without giving them notice and affording them an opportunity to be heard. The Office is therefore of the opinion that the Department action of February 23, 26, and 27, 1907 adverse to the applicants named, and its action disapproving the roll schedule upon which their names appeared is, so far as the above named applicants are concerned, void as without authority of law.

It is therefore recommended that the Department also approval placed upon the rolls containing their names opposite No. 16160 to 16176, inclusive, on the roll of citizens of the Cheekaw Nation by blood, and opposite No. 1646 to No. 1649, inclusive on the roll of intermarried citizens be cancelled therefrom, and that there be placed on said rolls for the signature of the Secretary of the Interior a notation as follows:

"Enrollment approved by the First Assistant Secretary, Department of the Interior, January 9, 1907 (I. T. D. No. 28844, 1906). I hereby certify that the above notation of enrollment is correct as shown by the records of the Interior Department."

It does not appear that the Department ever rendered any decision in favor of the enrollment of Felix K. West, Alcona Cheekley, Lemora, Trevor E., Ludie P., and William Leslie Parker, or Ethel, Flanagan and Herbert E. Cheekley, the other applicants in the case of Mattie Cheekley et al.

The Office therefore recommends that so far as they are concerned no action be taken by the Department looking to their enrollment.

The record in the case of Mattie Shockley et al was forwarded to the Department on January 15, 1907, and does not appear to have been returned. Other papers are inclosed.

Very respectfully,

(Signed) F. M. Abbott,
Acting Commissioner.

TFB-20.

1-33345

Land
29295-1909.
J. E. D.

(COPY)

25069

Enrollment case of
Mattie Shockley et al.

July 26, 1909.

The Honorable,

The Secretary of the Interior.

Sir:

Referring to Department letter of May 12, 1909 (File 5-51), there is transmitted herewith a report of April 14, 1909, from the Commissioner to the Five Civilized Tribes relative to the Choctaw enrollment case of Mattie Shockley et al.

The Office is of the opinion that in view of the Department action of August 15, 1907, in the case of Ferena Bullocks and others, the decision of the Department dated January 9, 1907, affirming the decision of the Commissioner to the Five Civilized Tribes of March 19, 1906, in favor of the enrollment of John A., Ephriam E., Mattie, Leverett, Elva May, Charles L., Albert, Herman, Hamie, Albert R., and Albert P. Shockley, and Lulu, Roy, Marie, and Corine West, as Choctaw citizens by blood, and of Mattie Osburne, and Ava, Callie, and Pauline Shockley as citizens of the Choctaw Nation by marriage, constituted in legal effect an enrollment of those persons, and that they thereby acquired the rights of Choctaw citizens. The Office does not believe, in view of the principles announced by the Supreme Court of the United States in its decision of November 30, 1908, in the Goldsby case (211 U. S., 249), that

L-29298-2.

it was within the authority of the Department to withdraw, rescind, or revoke its decision, or to take any other action to deprive these claimants named above of the rights acquired by them, without giving them notice and affording them an opportunity to be heard. The Office is therefore of the opinion that the Department action of February 23, 26, and 27, 1907 adverse to the applicants named, and its action disapproving the roll schedule upon which their names appeared is, so far as the above named applicants are concerned, void as without authority of law.

It is therefore recommended that the Department also approval placed upon the rolls containing their names opposite No. 16166 to 16176, inclusive, on the roll of citizens of the Cherokee Nation by blood, and opposite No. 1646 to No. 1649, inclusive on the roll of intermarried citizens be cancelled therefrom, and that there be placed on said rolls for the signature of the Secretary of the Interior a notation as follows:

"Enrollment approved by the First Assistant Secretary, Department of the Interior, January 9, 1907 (I. T. D. No. 28844, 1906). I hereby certify that the above notation of enrollment is correct as shown by the records of the Interior Department."

It does not appear that the Department ever rendered any decision in favor of the enrollment of Felix K. West, Elmer Shackley, Lemora, Trevor M., Leslie F., and William Leslie Parker, or Ethel, Frances and Herbert E. Shackley, the other applicants in the case of Mattie Shackley et al.

The Office therefore recommends that so far as they are concerned no action be taken by the Department looking to their enrollment.

The record in the case of Mattie Shonkley et al was forwarded to the Department on January 16, 1907, and does not appear to have been returned. Other papers are inclosed.

Very respectfully,

(Signed) F. L. Abbott,
Acting Commissioner.

175-20.

1-33365

Land
29295-1909.
J E. D.

(COPY)

Enrollment case of
Mattie Shockley et al.

29069

July 26, 1909.

The Honorable,

The Secretary of the Interior.

Sir:

Referring to Department letter of May 12, 1909 (File S-51), there is transmitted herewith a report of April 14, 1909, from the Commissioner to the Five Civilized Tribes relative to the Choctaw enrollment case of Mattie Shockley et al.

The Office is of the opinion that in view of the Department action of August 15, 1907, in the case of Serena Bullocks and others, the decision of the Department dated January 9, 1907, affirming the decision of the Commissioner to the Five Civilized Tribes of March 19, 1906, in favor of the enrollment of John E., Ephriam E., Mattie, Leverett, Elva May, Charles L., Albert, Hurman, Mamie, Albert R., and Albert P. Shockley, and Lulu, Roy, Marie, and Corine West, as Choctaw citizens by blood, and of Mattie Osborne, and Ava, Callie, and Pauline Shockley as citizens of the Choctaw Nation by marriage, constituted in legal effect an enrollment of those persons, and that they thereby acquired the rights of Choctaw citizens. The Office does not believe, in view of the principles announced by the Supreme Court of the United States in its decision of November 30, 1908, in the Goldsby case (211 U. S., 249), that

L-29893-2.

It was within the authority of the Department to withdraw, rescind, or revoke its decision, or to take any other action to deprive these claimants named above of the rights acquired by them, without giving them notice and affording them an opportunity to be heard. The Office is therefore of the opinion that the Department action of February 23, 26, and 27, 1907 adverse to the applicants named, and its action disapproving the roll schedule upon which their names appeared is, so far as the above named applicants are concerned, void as without authority of law.

It is therefore recommended that the Department disapprove, placed upon the rolls containing their names opposite No. 16160 to 16174, inclusive, on the roll of citizens of the Choctaw Nation by blood, and opposite No. 1646 to No. 1649, inclusive on the roll of intermarried citizens be cancelled therefrom, and that there be placed on said rolls for the signature of the Secretary of the Interior a notation as follows:

"Enrollment approved by the First Assistant Secretary, Department of the Interior, January 9, 1907 (I. T. D. No. 28464, 1906). I hereby certify that the above notation of enrollment is correct as shown by the records of the Interior Department."

It does not appear that the Department ever rendered any decision in favor of the enrollment of Felix K. Vest, Elzora Shookley, Lenora, Trevor M., Lucie W., and William Leslie Parker, or Ethel, Flossie and Herbert K. Shookley, the other applicants in the case of Mattie Shookley et al.

The Office therefore recommends that so far as they are concerned no action be taken by the Department looking to their enrollment.

The record in the case of Mattie Shockley et al was forwarded to the Department on January 13, 1909, and does not appear to have been returned. Other papers are inclosed.

Very respectfully,

(Signed) V. E. Abbott,
Acting Commissioner.

END-20.

Refer in reply to
the following:

Land-
Population
24074-1910
J E B

2-29161

Address only the
Commissioner of Indian
Affairs

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,

Enrollment claim of WASHINGTON.
William E. Brown, et al.

Mar 29 1910

The Commissioner
to the Five Civilized Tribes,
Muskogee, Oklahoma.

Sir:

On November 26, 1909, W. E. Field, attorney at law,
Washington, D. C., filed a brief in support of a motion for a
rehearing and review in the consolidated Choctaw enrollment case
of William E. Brown, et al.

There is transmitted herewith for your information a
copy of Department letter of March 22, 1910, denying said motion.
There is also inclosed a copy of Office letter of December 4,
1909, in said case.

Very respectfully,

John Francis Jr.
Acting Chief Land Division

RM-26
8626

G.C.A.

Copy

J.V.H.

DEPARTMENT OF THE INTERIOR.

WASHINGTON.

D-7330.

Office of Indian
Affairs.
Received
Mar 23 1910
File 21078

Commissioner of Indian Affairs.

Sir:

A petition has been filed for a rehearing and review in the matter of the Choctaw enrollment case of William B. Brown *et al.*, which was the subject of your letter of May 17, 1909, approved June 15, 1909, recommending that the Department take no action looking to the enrollment of any of the applicants included in said case.

It is urged that the applicants were found to be entitled to enrollment by the Secretary of the Interior and that therefore they should be accorded the status of recognized citizens of the Choctaw nation. It appears, however, from the records of the Department that the decision by which they were adjudged to be entitled to enrollment, and upon which they apparently rely, was rendered by the Commissioner to the Five Civilized Tribes; that said decision was not affirmed by the Secretary of the Interior, and that the names of the applicants do not appear upon the final rolls approved by the Secretary.

Premises considered, the petition is hereby denied and you are requested to advise the parties in interest ac-

cordingly. The petition and the letter received with it
are inclosed for the files of your office.

This letter will be regarded as a substitute for
departmental letter of March 8, 1910, relating to said case.

Very respectfully,

(Signed) Frank Pierce
First Assistant Secretary.

Land
Population
1880-1900
J E D

Enrollment case
of William E. Brown,
et al.

Dec. 4, 1909

W. E. Field, Esq.

Attorney at Law,

No. 926 Colorado Building,

Washington, D. C.

Sir:

Referring to your letter of November 24, 1909 and to the brief filed therewith, relative to the consolidated Cheataw enrollment case of William E. Brown, et al., you are advised that the statements contained in your brief do not accord with the facts in the case as shown by the record.

On March 1, 1907 the Department rendered its decision denying the applicants enrollment and disapproved the schedules containing their names. It does not appear that their names were ever on any roll or schedule of citizens of the Cheataw Nation prepared by the Commission or the Commissioner to the Five Civilized Tribes and approved by the Department or that the Department ever instructed the Commission or the Commissioner to place the names of the applicants on the roll for approval; neither does the record show that the Department ever rendered any decision favorable to their enrollment.

L-98202-2

On May 17, 1908 the Department held that the case of William B. Brown, et al., was not analogous to that of John E. Goldsby and did not come within the principles announced by the Supreme Court of the United States in its decision of November 30, 1903 (211 U. S., 249) in that case.

The Department, therefore, declined to take any action looking to the enrollment of the applicant included in the consolidated case of William B. Brown, et al.

In view of the record in the case and of the Department's action therein, the Office can see no reason for recommending legislation in behalf of the applicants in said case.

Very respectfully,

(Signed) F. H. Abbott,

Assistant Commissioner.

KAD-30
6202

7-6030

Muskogee, Oklahoma, January 5, 1910.

Mr. Ephraim E. Sheekley,
Sulphur, Oklahoma.

Sir:

Referring to the Choctaw enrollment cases of Mattie Sheekley, et al. and Lulu West, et al., you are advised that on December 7, 1909, the Department held that no further action could or should be taken looking to the enrollment of the applicants therein.

Respectfully,

Acting Commissioner.

McM

Choctaw 6031
Charles L. Shockley

March 1, 1907 Dept reversed decision of
Commissioners and disapproved schedules
bearing names of these persons

March 1, 1909 Dept requests report as to
persons within this class.

Transfer from 7-5188 5-20-06

Duplicate record bound - Sec Pet #C-16

6031

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of
Mattie Shockley, et al., as citizens of the Choctaw Nation, consol-
idating the applications of

Mattie Shockley, et al	7-5238
Lula West, et al.,	7-5191
Ephriam E. Shockley, et al.,	7-5109
Charles L. Shockley, et al.,	7-5188
Lenora Parker, et al.,	7-5190
Albert R. Shockley,	7-5193
Elzora Shockley, et al.,	7-5189
Pauline Shockley, et al.,	7-D-51

D E C I S I O N .

It appears from the record herein that on October 4, 1898, application was made to the Commission to the Five Civilized Tribes for the enrollment of Mattie Shockley as a citizen by intermarriage of the Choctaw Nation, and for the enrollment of her son, John E. Shockley, as a citizen by blood of the Choctaw Nation; on September 24, 1898, application was made by Felix K. West for the enrollment of himself as a citizen by intermarriage of the Choctaw Nation, and for the enrollment of his wife, Lula West, and his three minor children, Roy, Marie, and Corine West, as citizens by blood of the Choctaw Nation; on September 22, 1898, application was made by Ephriam E. Shockley for the enrollment of himself and two minor children, Mattie and Leverett Shockley, as citizens by blood of the Choctaw Nation, and for the enrollment of his wife, Ava Shockley, as a citizen by intermarriage of the Choctaw Nation; on September 24, 1898, application was made by Charles L. Shockley for the enrollment of himself and two minor children, Albert and Hurman Shockley, as citizens by blood of the Choctaw Nation, and for the enrollment of his wife Callie Shockley, as a citizen by intermarriage of the Choctaw Nation; on September 24, 1898, application was made by Lenora Parker for the enrollment of herself and minor child, Trever M. Parker, as citizens by blood of the Choctaw Nation; on September 24, 1898, application was made by Albert R. Shockley for the enrollment of himself as a citizen by blood of the Choctaw Nation; on September 24, 1898, application was made by Elzora Shockley for the enrollment of herself as a citizen by intermarriage of the Choctaw Nation, and for the enrollment of her child, Ethel Shockley, as a citizen by blood of the Choctaw Nation; on September 24, 1898, application was made by Pauline Shockley for the enrollment of herself as a citizen by intermarriage of the Choctaw Nation, and for the enrollment of her son, Albert P. Shockley, as a citizen by blood of the Choctaw Nation.

On November 12, 1900, written application was made to the Commission to the Five Civilized Tribes for the enrollment of Elva May Shockley, minor child of Ephriam E. Shockley and Ava Shockley; on December 14, 1899, written application was made for the enrollment of Mamie Shockley, minor child of Charles L. Shockley and Callie Shockley; and on October 30, 1899, and April 29, 1902, written application was also made for the enrollment of Ludie F. Parker and William Leslie Parker, respectively, minor children of Lenora Parker and W. I. Parker, a non-citizen white man.

It appears from the records of the Commission to the Five Civilized Tribes that on September 9, 1896, in the case entitled "F. K. West vs. Choctaw Nation" (1896 Choctaw Citizenship Docket, Case No. 955), original application was made to said Commission, under the provisions of the Act of Congress approved June 10, 1896 (29 Stat., 321), for admission to citizenship in the Choctaw Nation of the applicants, Mattie Shockley (as Mattie L. Shockley), Felix K. West (as F. K. West), Ava Shockley, Callie Shockley, and Elzora Shockley as citizens by intermarriage of the Choctaw Nation, and John E. Shockley (as Eddie Shockley), Lula West, Roy West, Ephriam E. Shockley, Mattie Shockley, Leverett Shockley, Charles L. Shockley, Albert Shockley, Lenora Parker (as Nora Parker), Albert R. Shockley (as Albert Shockley), and Ethel Shockley as citizens by blood of the Choctaw Nation; that on December 5, 1896, said Commission rendered its decision therein admitting Mattie Shockley (as Mrs. Mattie L. Shockley), Felix K. West (as F. K. West), Ava Shockley, Callie Shockley, and Elzora Shockley as citizens by intermarriage of the Choctaw Nation, and John E. Shockley (as Eddie Shockley), Lula West, Roy West, Ephriam E. Shockley, Mattie Shockley, Leverett Shockley, Charles L. Shockley, Albert Shockley, Lenora Parker (as Nora Parker), Albert R. Shockley (as Albert Shockley), and Ethel Shockley as citizens by blood of said nation. From this decision of the Commission, an appeal was taken by the Choctaw Nation to the United States Court for the Central District of Indian Territory, which court in the case entitled "F. K. West vs. Choctaw Nation" (Central District Citizenship Case No. 226), affirmed the decision of said Commission, admitting Mattie Shockley (as Mattie L. Shockley), Felix K. West (as F. K. West), Ava Shockley, Callie Shockley, and Elzora Shockley as citizens by intermarriage of the Choctaw Nation, and John E. Shockley (as Eddie Shockley), Lula West, Roy West, Ephriam E. Shockley, Mattie Shockley, Leverett Shockley, Charles L. Shockley, Albert Shockley, Lenora Parker (as Nora Parker), Albert R. Shockley (as Albert Shockley), and Ethel Shockley as citizens by blood of the Choctaw Nation.

It further appears from the records of said Commission that on December 17, 1902, the Choctaw and Chickasaw Citizenship Court created under the provisions of the Act of Congress approved July 1, 1902, (32 Stat., 641), "set aside, annulled, vacated and held for naught" the aforesaid judgment of the United States Court for the Central District of Indian Territory.

Thereafter, the record in the above case was certified to the Choctaw and Chickasaw Citizenship Court for a trial de novo, which court on March 21, 1904, in the case of "F. K. West, et al., vs. Choctaw and Chickasaw Nations" (Choctaw-Chickasaw Citizenship Court Case No. 42 South McAlester Docket), "ordered, adjudged, and decreed that the petition of the plaintiffs, F. K. West, Ava Shockley, Callie Shockley, Elzora Shockley (or Alzora Shockley), Mattie L. Shockley (now Mattie L. Osborn), Charles L. Shockley,

Ephram E. Shockley (or Ephraim E. Shockley), Eddie Shockley, Lula West, Albert Shockley, Roy West, Marie West, Mattie Shockley, Leverett Shockley, Ethel Shockley, Nora Shockley (now Nora Parker), and Albert R. Shockley, be denied, and that they be declared not citizens of the Choctaw Nation, and not entitled to enrollment as such citizens, and not entitled to any rights whatsoever flowing there from."

On May 27, 1904, orders were entered of record by the Commission to the Five Civilized Tribes, dismissing the applications for the enrollment of Corine West, Elva May Shockley, Hurman Shockley, Mamie Shockley, Trevor M. Parker, Ludie F. Parker and William Leslie Parker as citizens by blood of the Choctaw Nation, for the reason that their parents through whom they claim their right to enrollment as citizens by blood of the Choctaw Nation had been denied by a decree of the Choctaw and Chickasaw Citizenship Court.

On December 16, 1904, the applicant, Lula West, forwarded a petition to the President, praying him to cause an investigation to be made of the allegations contained in said petition, and if said allegations were found to be true, to cause her name to be placed upon the final roll of citizens by blood of the Choctaw Nation.

Said petition was on February 15, 1905, (I.T.D. 10353-1904) forwarded by the Department to the Commission to the Five Civilized Tribes with instructions to permit the petitioner to submit such testimony in support of her claim as she may see fit, and enclosed a copy of an opinion of the Assistant Attorney General for the Department of the Interior of February 10, 1905 (I. T. D. 10353-1904), wherein it was held that said Commission had jurisdiction to examine into the claimants cause, and should adjudicate it upon its merits, regardless of the judgment of the Choctaw and Chickasaw Citizenship Court.

A motion for review was filed with the Department by the Attorneys for the Choctaw and Chickasaw Nations, and on December 13, 1905, the Department (I.T.D. 6380-1905) forwarded a copy of an opinion of the Assistant Attorney General for the Department of the Interior of December 8, 1905 (I.T.D. 3693-1905), wherein he adhered to his former opinion rendered on February 10, 1905, and held that Lula West having on January 9, 1890, been admitted to citizenship in the Choctaw Nation by the Secretary of the Interior, the Commission to the Five Civilized Tribes had no jurisdiction under the Act of June 10, 1896, to pass upon her rights, and the United States Court for the Central District of Indian Territory, and the Choctaw and Chickasaw Citizenship Court on appeal were also without jurisdiction. Copies of this opinion were forwarded the applicant, Lula West, and her attorney of record, on December 23, 1905.

Under the regulations adopted by the Commissioner to the Five Civilized Tribes on January 2, 1906, there was filed on January 22, 1906, by Thomas Norman, of Ardmore, Indian Territory, attorney for the petitioners, a petition verified by Lula West, and submitted on behalf of Lula West, F. K. West, Roy West, Mariu West, Corine West, Elzora Shockley, Ethel Jones (nee Shockley), Charles L. Shockley, Callie Shockley, Albert Shockley, Herman Shockley, Mamie Shockley, Herbert E. Shockley, E. E. Shockley, Ava Shockley, Mattie Shockley, Leverett Shockley, Elva May Shockley, Plassie Shockley, Pauline Daniel (nee Shockley), Albert Shockley, Mattie L. Osborn (nee Shockley), Eddie Shockley, Lenora Parker, (nee Shockley), Treva Myrtle Parker, Ludie Franklin Parker, William Leslie Parker, and

Albert R. Shockley, praying that they be enrolled as citizens of the Choctaw Nation.

All of the above petitioners, with the exception of Herbert E. and Plassie Shockley, are identical with the applicants for whom application was made prior to December 25, 1902, for enrollment as citizens of the Choctaw Nation.

On February 8, 1906, the principal petitioner, Lula West, her attorney, Thomas Norman of Ardmore, Indian Territory, and Messrs. Mansfield, McMurray & Cornish, attorneys for the Choctaw and Chickasaw Nations, of South McAlester, Indian Territory, were advised that the Commissioner to the Five Civilized Tribes would, at his office at Muskogee, Indian Territory, on Monday, March 5, 1906, at four o'clock P. M., hear such testimony and receive such other evidence as might be submitted by the petitioners in support of their applications for enrollment as citizens of the Choctaw Nation, and by the attorneys for the Choctaw and Chickasaw Nations.

By agreement of counsel, the hearing in this case was continued from four o'clock P. M., on Monday, March 5, 1906, until seven o'clock P. M., on the same day, at which time proceedings were had pursuant to the notices above mentioned.

It appears from the record herein that on July 15, 1889, on appeal from the adverse action of the Choctaw National Council, the United States Indian Agent, Leo E. Bennett, rendered a decision admitting John Shockley (now deceased), Mattie L. Shockley, William Shockley (now deceased), Elzora Shockley, Charles L. Shockley, Ephriam Shockley, Lula Shockley, and Robert Shockley to Choctaw citizenship, said decision being on January 9, 1890, approved by the Secretary of the Interior. It is contended by the applicants herein that no such person as Robert Shockley ever existed; that the same was an error, and should have been Albert Shockley (now deceased), a son of John Shockley, the principal petitioner before the Indian Agent.

It further appears from the record herein that the principal applicant, Mattie Shockley, who was admitted by the Indian Agent as the wife of John Shockley, was on January 22, 1899, married to J. R. Osborn, a non citizen white man; that John E. Shockley is a son of said Mattie Shockley and John Shockley, now deceased, (admitted by the Indian Agent); that Lula West (admitted by the Indian Agent) is the daughter of John Shockley, above mentioned, and Fatima Shockley (now deceased), a non-citizen white woman; that Roy, Marie and Corine West are the children of said Lula West and Felix K. West, an applicant herein for enrollment as a citizen by intermarriage of the Choctaw Nation; that Ephriam E. Shockley (admitted by the Indian Agent) is the son of John Shockley and Fatima Shockley, above mentioned; that Mattie, Leverett and Elva May Shockley are the children of said Ephriam E. Shockley and Ava Shockley, an applicant herein for enrollment as a citizen by intermarriage of the Choctaw Nation; that Charles L. Shockley (admitted by the Indian Agent) is the son of John Shockley and Fatima Shockley, above mentioned; that Albert, Hurman and Mamie Shockley are the children of said Charles L. Shockley and Callie Shockley, an applicant herein for enrollment as a citizen by intermarriage of the Choctaw Nation; that Lenora Parker, was born about the year 1878, and is the daughter of William Shockley, deceased, (admitted by the Indian Agent) and Bettie Shockley (deceased), a non-citizen white woman; that Trevor M., Ludie F. and William Leslie Parker are the children of said Lenora Parker and W. I. Parker, a non-citizen white man; that

Albert R. Shockley is the son of William Shockley and Bettie Shockley, above mentioned; that the applicant Elzora Shockley, was by a decision of the Indian Agent admitted to Choctaw citizenship as the wife of William Shockley; that Ethel Shockley is the daughter of said Elzora Shockley and William Shockley, above mentioned; and that Albert P. Shockley was born in 1897 and is the son of Albert Shockley (now deceased) who (as Robert Shockley) was also admitted by the decision of the Indian Agent.

Upon an examination of the tribal rolls of the Choctaw Nation in the possession of this office, it appears that John E. Shockley, Lula West, Roy West, Ephriam E. Shockley, Mattie Shockley, Charles L. Shockley and Albert Shockley are identified upon the 1893 Choctaw Leased District Payment Roll, Chickasaw District, numbers 501, 581, 582, 498, 499, 497 and 500, respectively, enrolled thereon as citizens by blood of the Choctaw Nation.

It further appears from the record herein that the applicant, Felix K. West, was on August 20, 1889, under the laws of Tennessee, married to the applicant, Lula West; that the applicant Ava Shockley was on July 30, 1890, lawfully married to the applicant Ephriam E. Shockley; that the applicant, Callie Shockley, was on December 10, 1893, lawfully married to the applicant, Charles L. Shockley; and that Pauline Shockley was on November 2, 1896, lawfully married to Albert Shockley (now deceased), who (as Robert Shockley) was admitted to Choctaw citizenship by the decision of the Indian Agent.

It further appears from the record herein and from the records of the Commission to the Five Civilized Tribes that the applicants, Felix K. West, Lenora Parker, Trever M. Parker, Lottie F. Parker and William Leslie Parker, have never been enrolled by the Choctaw tribal authorities as members of the Choctaw tribe, or admitted to Choctaw citizenship by a duly constituted court or committee of the Choctaw Nation, or by the United States Indian Agent, nor has the applicant, Felix K. West, ever been married to the applicant, Lula West, through whom he claims his intermarried rights, by virtue of a license issued by the tribal authorities of the Choctaw Nation.

It further appears from the record herein that all of the applicants herein, who were living at said time, with the exception of Elzora Shockley and Ethel Shockley, were residents in good faith of Indian territory on June 28, 1898.

As to the applicant, Elzora Shockley, the evidence herein shows that she was born in the state of Arkansas, and resided there continuously until 1886, when she removed to the Indian Territory where she resided until 1889; that thereupon she returned to the state of Arkansas, where she resided continuously until 1900; and that the applicant, Ethel Shockley, was born in the state of Arkansas in about the year 1891, and resided continuously therein with her mother, Elzora Shockley, until 1900.

From the above, it is considered that the applicants, Elzora Shockley and Ethel Shockley, were not residents in good faith of Indian territory on June 28, 1898, as provided by Section 21 of the Act of Congress approved June 28, 1898 (30 Stats., 495).

It further appears from the record herein that on March 5, 1906, application was made to the Commissioner to the Five Civilized Tribes for the enrollment of plasse Shockley and Herbert E. Shockley as citizens by blood of the Choctaw Nation. The applicant, Plasse Shockley was born on April 6, 1903, and is the daughter of the applicants, Ephriam E. Shockley and Ava Shockley, and that the applicant, Herbert E. Shockley, was born June 18, 1903, and is the

son of the applicants, Charles L. Shockley and Callie Shockley.
The Act of Congress approved March 3, 1905 (33 Stats., 1070) provides:

"That the Commission to the Five Civilized Tribes is authorized for sixty days after the date of the approval of this act to receive and consider applications for enrollment of children born subsequent to September twenty-fifth, nineteen hundred and two, and prior to March fourth, nineteen hundred and five, and who were living on said latter date, to citizens by blood of the Choctaw and Chickasaw tribes of Indians whose enrollment has been approved by the Secretary of the Interior prior to the date of the approval of this act; and to enroll and make allotments to such children."

I am of the opinion that inasmuch as the applicants, Plassee Shockley, and Herbert E. Shockley, are not the children of recognized and enrolled citizens by blood of the Choctaw Nation, whose enrollment had been approved by the Secretary of the Interior prior to March 3, 1905, I am now without authority to receive or consider their applications for enrollment as citizens by blood of the Choctaw Nation, and that the same should be dismissed, without prejudice to the applicants, and it is so ordered.

I am of the opinion that the orders of the Commission to the Five Civilized Tribes of May 27, 1904, dismissing the applications for the enrollment of Corine West, Elva May Shockley, Hurman Shockley, Mamie Shockley, Trever M. Parker, Ludie F. Parker and William Leslie Parker should be rescinded.

I am further of the opinion that in accordance with the opinions of the Assistant Attorney General for the Department of the Interior of February 10, 1905 (I.T.D. 10353-1904) and December 8, 1905 (I. T.D. 3693-1905), in the case of Lula West, that John E. Shockley, Lula West, Roy West, Marie West, Corine West, Ephriam E. Shockley, Mattie Shockley, Leverett Shockley, Elva May Shockley, Charles L. Shockley, Albert Shockley, Hurman Shockley, Mamie Shockley, Albert R. Shockley and Albert P. Shockley should be enrolled as citizens by blood of the Choctaw Nation, and that Mattie Osborn, Ava Shockley, Callie Shockley and Pauline Shockley should be enrolled as citizens by intermarriage of said Nation, under the provisions of the Acts of Congress approved June 28, 1898 (30 Stats., 495) and July 1, 1902 (32 Stats., 641), and it is so ordered.

I am further of the opinion that the applications made for the enrollment of Felix K. West and Elzora Shockley as citizens by intermarriage of the Choctaw Nation, and the applications for the enrollment of Lenora Parker, Trever M. Parker, Ludie F. Parker, William Leslie Parker and Ethel Shockley as citizens by blood of said nation should be denied under the provisions of the Act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered.

(Signed)

Tams Bixby
Commissioner.

Muskogee, Indian Territory,
March 19 1906.

7-5188.

COPY.

Muskogee, Indian Territory, May 4, 1906.

Charles L. Shockley,

Durwood, Indian Territory.

Dear Sir:

You are hereby advised that the Commissioner to the Five Civilized Tribes on March 19, 1906, rendered his decision in the matter of the application for the enrollment of Mattie Shockley et al. as citizens of the Choctaw Nation, consolidating the applications of

Mattie Shockley, et al.,	7-5238
Lula West, et al.,	7-5191
Ephraim E. Shockley, et al.,	7-5109
Charles L. Shockley, et al.,	7-5188
Lenora Parker, et al.,	7-5190
Albert R. Shockley,	7-5193
Elzera Shockley, et al.,	7-5189
Pauline Shockley, et al.,	7-5-51.

By this decision the application made for the enrollment of yourself and your minor children, Albert, Herman and Mamie Shockley, as citizens by blood, and that of your wife, Callie Shockley, as a citizen by intermarriage of the Choctaw Nation was granted, and the application made for the enrollment of your minor child, Herbert E. Shockley, as a citizen of the Choctaw Nation was dismissed without prejudice.

Respectfully,

Wm. O. Beall.

Acting Commissioner.

2-51881

COPY

Muskegee, Indian Territory, May 4, 1906.

Thomas Norman,
Attorney at Law,
Ardmore, Indian Territory.

Dear Sir:

You have been furnished under a separate cover with a decision of the Commissioner to the Five Civilized Tribes of March 19, 1906, in the consolidated enrollment case of Mattie Shookley et al., in which the application made for the enrollment of Plassee Shookley and Herbert E. Shookley were dismissed without prejudice to the applicants.

It appears from the records of this office that Plassee Shookley was born April 6, 1903, and is the daughter of Ephriam E. and Ava Shookley, and that Herbert Shookley was born June 15, 1903, and is the daughter of Charles L. and Callie Shookley.

At the time of the rendition by the Commissioner of his decision of March 19, 1906, there was apparently no authority for the reception and consideration of the applications for the enrollment of these children. Since the rendition of said decision there was approved on April 26, 1906, by the President an act of Congress entitled "An Act to provide for the final disposition of the affairs of the Five Civilized Tribes in the Indian Terri-

T.N.-----2

tory, and for other purposes", and which provides in part as follows:

"That for ninety days after approval hereof applications shall be received for enrollment of children who were miners living March fourth, nineteen hundred and six, whose parents have been enrolled as members of the Choctaw tribes, or have applications for enrollment pending at the approval hereof. . ."

It is suggested that application be submitted for the enrollment of the two children referred to under the provisions of the Act of Congress approved April 26, 1906.

Respectfully,

SIGNED *Wm. O. Beall.*

Acting Commissioner.



EDDLEMAN & JOHNSON,
LAWYERS.

OFFICE, HERBERT J. LEWIS BUILDING.

A. (LEX) EDDLEMAN,
VOLNEY JOHNSON.

Ans Sept 2nd 1897
5108
ARDMORE, I. T. Sept. 21st 1897.

Hon. Commission to the Five Tribes,

Fort Gibson, Ind. Ter.

FILED
Gentlemen: SEP 23 1897

H. W. Johnson On the 25th August I mailed you application on behalf of Hurman Shockley, an infant, to be enrolled as member of the Choctaw tribe of Indians by blood. The citizenship of the parents of this applicant was involved in case of F. K. West et al vs Choctaw Nation, and they were admitted by the Commission, and at the time this application was filed that case was pending on appeal by the Choctaw Nation in the U.S. Court at South McAlester. Since then the judgment of the Commission has been affirmed and the Clerk directed to certify the same to the Commission. It occurs to me that this settles the matter of this application in favor the applicant, but in order for the judgment of affirmance to be used in evidence by the Commission, is it necessary for me to send a certified copy, or will the Commission take notice of the judgment of affirmance without the necessity of this. I suppose of course that the Clerk has furnished you with a certified copy in the that case, and if he has not please advise me and I will have him do so.

Yours truly,

A. Eddleman

8660
9-5188.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

COPY.

In the matter of the application for the enrollment of
Hurman Shockley and Mamie Shockley as citizens by blood of the
Choctaw Nation.

The applicants, Hurman Shockley and Mamie Shockley, claim
their right to enrollment as citizens by blood of the Choctaw
Nation through their father Chas. L. Shockley. The right of the
applicants' father, Chas. L. Shockley, to citizenship in the Choctaw
Nation having been adversely determined by a decree of the
Choctaw and Chickasaw Citizenship Court, March 21, 1904, in case
No. 42, upon the South McAlester docket of said court, it is hereby
ordered that the application of Hurman Shockley and Mamie Shockley
for enrollment as citizens by blood of the Choctaw Nation be dis-
missed.

COMMISSION TO THE FIVE CIVILIZED TRIBES,

SIGNED

Jams Bixby.

Chairman.

Indian Territory.

MAY 2 1904

Chectaw-5188

Muskogee, Indian Territory, January 21, 1904.

Charles Shockley,

Durwood, Indian Territory.

Dear Sir:

Receipt is hereby acknowledged of your letter of January 8, 1904, in which you state that you are a Court Claimant and ask that your rights be protected until the determination of your case.

In reply to your letter you are informed that if you will furnish a description of the land which you desire to select in allotment, proper notation thereof will be made upon our records, and you will be notified in the event any other person makes application for the same land or any portion thereof, and will be permitted to institute contest proceedings therefor.

Respectfully,

Commissioner in Charge.

7-5188

Muskogee, Indian Territory, November 8, 1905.

J. S. Mullen,

Ardmore, Indian Territory.

Dear Sir:

Receipt is hereby acknowledged of your letter of November 1, 1905, in which you ask the status of Charles Shesley, an applicant for citizenship in the Lula West case.

In reply to your letter you are advised that this office has not been notified of further action by the Department in the matter of the enrollment of Lula West et al., as citizens of the Choctaw Nation.

Respectfully,

Commissioner.

7-5188

Muskogee, Indian Territory, September 21, 1905.

Charles L. Shockley,

Durwood, Indian Territory.

Dear Sir:

Replying to your letter of the 17th instant, you are advised that it appears from the records of this office that on March 21, 1904, a decree was rendered by the Choctaw and Chickasaw Citizenship Court denying an application for the admission of yourself, your wife, Callie, and your minor child, Albert Shockley, as citizens of the Choctaw Nation and that on May 27, 1904, the Commission to the Five Civilized Tribes dismissed the application for the enrollment of Herman and Mamie Shockley, for the reason that the father of the applicants, Charles L. Shockley, had been denied citizenship in the Choctaw Nation by the decree of the Citizenship Court above referred to.

It further appears that the citizenship Court assumed jurisdiction over your case from the fact that you had applied and was admitted as a citizen of the Choctaw Nation by the Commission to the Five Civilized Tribes in 1896, and also admitted on appeal by the United States Court for the Central District of the Indian Territory.

By a recent opinion of the Assistant Attorney General for the Department of the Interior it has been held that the Commission

to the Five Civilized Tribes, the United States Court and the Choctaw and Chickasaw Citizenship Court could have acquired no jurisdiction over any person who was prior to 1896 a duly recognized and enrolled citizen of either the Choctaw or Chickasaw Nation. If you and your family were prior to the submission of the petition in 1896 ever admitted by any act of the Choctaw Council or participated in any of the payments made to citizens of the Choctaw Nation, upon a prima facie showing of this fact, this office will receive and consider testimony tending to show that you and the members of your family are entitled to enrollment as citizens of the Choctaw Nation, irrespective of any action taken by the Commission to the Five Civilized Tribes in 1896, the United States Court or the Choctaw and Chickasaw Citizenship Court.

Respectfully,

Acting Commissioner

SPECIAL.

J.P.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

FHE

D.C. 2920-1907.
I.T.D. 25868-1906.
818-1907.

January 15, 1907.

LRS

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

Referring to departmental letters of January 9 and 14, 1907, in the matter of the application for the enrolment of Mattie Shockley et al., as citizens by blood of the Choctaw Nation, you are advised that by direction of the President the case will be submitted to the Attorney-General for his opinion. You will suspend action relative to these claimants until further advised.

Respectfully,

Thos Ryan
First Assistant Secretary.

D. C. 8103-1907.

W.H.M.

L. R. S.

DEPARTMENT OF THE INTERIOR,

WASHINGTON.

January 21, 1907.

I. T. D. 812-1907.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

There are inclosed herewith, for your information, copies of letters addressed to the Attorney-General, dated January 19, 1907, transmitting the records in the cases of William G. Thompson, et al, as Cheetaw citizens, Ethel Pierson, a Cheetaw freedman, Richard B. Coleman, et al., Cheetaw citizens, and Loula West, a Cheetaw citizen by blood.

Respectfully,

Jesse H. Wilson,
Assistant Secretary.

Through the
Commissioner of Indian Affairs,
4 enclosures.

FILE.

I. T. D. 818-1907.

January 19, 1907.

The Attorney-General.

Sir:

I have the honor to transmit herewith, in accordance with the direction of the President, in a communication to me of the 12th instant, the papers in the matter of the application for the enrolment of Loula West as a citizen by blood of the Choctaw Nation, Indian Territory, upon the roll being prepared by the Commission to the Five Civilized Tribes in accordance with the act of June 28, 1898 (30 Stat., 495), and subsequent legislation, including the opinions of the Assistant Attorney-General for this Department, of February 10, 1905, and December 8, 1905, both approved by me, in view of which the Department, on January 9, 1907, authorized, in letter to the Commissioner to the Five Civilized Tribes, the enrollment of Loula West and certain other applicants in the case of Mattie Shockley, et al.

On January 15, 1907, however, in view of the order of the President, the Commissioner was directed to suspend action relative to such applicants.

A communication addressed to the members of the Select Committee on Indian Affairs, received with the President's letter, is also inclosed. See letter of even date submitting the cases of William C. Thompson, et al., Richard B. Coleman, et al., and Ethel Pierson.

-2-

There is also transmitted a copy of the Eleventh Annual Report of the Commission to the Five Civilized Tribes, in which, commencing on page 57, may be found copies of the laws passed up to the date of the report, affecting the work of the Commission.

Should you desire copies of any of the opinions of the Assistant Attorney-General or letters of the Department referred to in the opinions inclosed, I will be pleased to furnish them.

A schedule of the papers inclosed, except said annual report of the Commission to the Five Civilized Tribes is attached. It is respectfully requested that the papers mentioned in the schedule be returned to the Department in due time.

Respectfully,

H. A. Hitchcock,

Secretary.

32 inclosures.

TR.

Schedule.

- A. The letter from the President, of Jan. 12, 1907, with inclosures..... 818-1907.
- B. Letter from Loula West to the President, of December 16, 1904..... 10323-1904.
- C. Opinion of the Assistant Attorney-General of February 10, 1905..... 1484-1905.
- D. Indian Office letter of May 27, 1905..... 6380-1905.
- E. Letter from the attorneys for the Cheetaw and Chickasaw Nations, of April 8, 1905..... 7583-1905.
- F. Letter from the attorneys for the Cheetaw and Chickasaw nations of April 8, 1905..... 7679-1905.
- G. Opinion of Assistant Attorney-General of December 8, 1905..... 16856-1905.
- H. Letter from Lula West of December 8, 1906..... 15159-1906.
- I. Indian Office letter of December 22, 1906..... 25864-1906.
- K. Indian Office letter of January 15, 1907 with inclosures 1016-1907.
- L. Indian Office letter of January 15, 1907 with inclosures 1034-1907.

7-6031

Muskogee, Indian Territory, January 7, 1907.

Charles L. Shockley,
Durwood, Indian Territory.

Dear Sir:

Your letter of December 16, 1906, addressed to the Secretary of the Interior has been by him referred to this office for consideration and appropriate action. Therein you ask the status of the application for the enrollment of the persons included in the Loula West case.

In reply to your letter you are advised that this case is still pending before the Department and this office has not been advised of any action taken therein by the Secretary of the Interior.

Respectfully,

Commissioner.

7-6031

Muskogee, Indian Territory, January 14, 1907.

Charles H. Shockley,

Darwood, Indian Territory.

Dear Sir:

Receipt is hereby acknowledged of your letter of December 27, 1906, asking the status of the citizenship case of yourself and your family.

In reply to your letter you are advised that application for the enrollment of yourself and the other members of your family is now pending before the Secretary of the Interior and you will be notified of Departmental action thereon.

Respectfully,

Commissioner.

D. C. 10915-1907.

J.P.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

L.M.

February 23, 1907.

I. T. D. 4864-1907.

L. R. 9.

Direct.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

Confirming telegram of this date, as follows--

"You are directed to inspect the partial rolls of citizens of the Choctaw and Chickasaw nations to determine what persons have been enrolled thereon contrary to the views expressed by the Attorney-General in opinion of February 19, copy sent you this day, and whose names should be stricken therefrom. You will furnish the Department a list of such names with roll numbers, and give such information that it may readily determine whether such names should be stricken from the rolls. This information should reach the Department before March first. Take like action relative to the rolls of the Cherokee and Creek nations.

It was held in such opinion, among other things, that the decisions of the Commission under act of 1896, not appealed from, were final, and that the decisions of the Choctaw and Chickasaw Citizenship Court were final, whether claimant's name was on tribal rolls or not.

Decisions of the Department, based upon opinions of the Assistant Attorney-General, in favor of claimants in the cases of Loula West et al., William C. Thompson et al., and Richard W. Coleman et al. are rescinded in letter to you of this day. The decision of the Department in the Ethel Pierson case, minor child of a Choctaw freedman, is sustained in the opinion of the Attorney-General.

E. A. Hitchcock,
Secretary."

a copy of the opinion of the Attorney-General referred to therein is inclosed, and you are directed to strike the names of the claimants in the Choctaw enrollment cases of Loula West et al., if enrolled; William C. Thompson et al., and Richard B. Coleman et al. from the partial roll of citizens of the Choctaw Nation, as of this date, referring to this letter as your authority. Advise the Department of your action, giving roll numbers, etc., in order that the parts of the rolls in the possession of the Department and the Indian Office may be made to show the cancellation.

In accordance with said opinion, the enrollment of Cyrus H. Kingsbury and Lucy E. Littlepage will be allowed to stand. The patent in favor of Cyrus H. Kingsbury received with your letter of March 10, 1896, has been approved and is inclosed.

As soon as practicable you will advise the Department relative to the status of any land, whether patented, etc., that may have been selected by any person hereby stricken from the rolls or to be stricken from such rolls, and make such recommendations as to the course that should be pursued concerning such tracts as you deem proper.

A carbon copy hereof has been sent to the Indian Office.

Respectfully,

H. A. Hitchcock,
Secretary.

2 inclosures.

C O P Y.

DEPARTMENT OF JUSTICE,
WASHINGTON.

February 19, 1907.

The Secretary of the Interior.

Sir:

I have the honor to communicate to you my opinion in certain Choctaw Indian citizenship cases, the first two submitted by your letter of May 29, 1906, and the others by the direction of the President under date of January 19, 1907.

1. The first case is that of Myrtie Randolph and her brother W. J. Thompson, in regard to which you say:

Myrtie Randolph and W. J. Thompson are children of Giles Thompson, white, intermarried in the Choctaw Nation in Mississippi prior to the treaty of September 27, 1830, (7 Stat., 333), and was one of the parties named by supplementary article II (ib. 340,) as entitled to a section and a half, reserved to him from the ceded lands, to be so selected as "to include their present residence and improvement." His first and second wives were Choctaws. His name appears on page 64, volume 7, American State Papers (Public Lands), as a beneficiary of Article XII of the treaty of September 27, 1830, and on page 28, volume 1 of the record in suit of the Choctaw Nation v. United States, Court of Claims. He was registered under the treaty as citizen of the Choctaw Nation, Moshulatubbee's District, and with his family was transported under the treaty as Choctaws, at expense of the United States, from Mississippi to the Choctaw Nation, west, prior to October 24, 1833, when he petitioned the President, from Deaksville, near the Red River, in the southern part of the Choctaw Nation, to approve sale of his Mississippi lands to James Gay, of Mississippi, and for issue of patent therefor (copy A enclosed). In the Choctaw Nation, west, in Indian Territory, in 1863, in accordance to Choctaw law, he married a white woman, citizen of the United States, of whom the applicants were born. He was living October 19, 1866, and was paid by the Choctaw Nation for

beever furnished June, 1865. (Copy of act of Council of October 19, 1865, is enclosed, B). He continued to live in the Nation, and was recognized as a citizen, until his death, aged seventy-six years, and his estate was administered in the Choctaw courts as that of an Indian and within their jurisdiction. The applicants--his children--were born in the Choctaw Nation, were admitted to and attended the Choctaw schools as Choctaws, and in all respects enjoyed and were accorded the privileges of native born Choctaws. The applicants were enrolled by Choctaw Committee on Citizenship in 1892, as Choctaw citizens. The Department is not yet advised whether they are borne on any other of the Choctaw rolls. They settled and improved tribal lands, as the father before had done in Mississippi, as Choctaws, erected homes, and were never ousted or objected to or regarded as intruders.

September 8, 1896, these applicants and others applied to the Commission to the Five Civilized Tribes for enrollment under the act of June 10, 1896 (29 Stat., 321-339) and December 7, 1896, were denied. Applicants appealed to the United States Court, Southern District, Indian Territory which, January 18, 1898, reversed the commission, and admitted the applicants. From this judgment thenation appealed and the judgment was affirmed (reported as *Stephens v. Cherokee Nation and Choctaw Nation v. Robinson*, 174 U.S., 445, foot-note page 469, case No. 387; same v. *Randolph et al.*). Subsequently, under the act of July 1, 1902 (32 Stat., 641, 646-9), the matter was brought by appeal of the nations to the Choctaw-Chickasaw Citizenship Court, which, November 29, 1904, denied the application--copy of opinion wherein and in *Wall v. Choctaw Nation et al.*, and in *R. E. Bounds v. Choctaw and Chickasaw Nations*, wherein both were founded, are enclosed (C. D. R.).

The validity and finality of the Citizenship Court are therefore a vital feature of this case. In regard to its judgment you say in your letter:

Bearing upon the validity of this judgment, your attention is called to the fact that the act of June 10, 1896, gave no power to the Commission to the Five Civilized Tribes to purge the tribal rolls, which were by the act confirmed. Power to purge the rolls was first conferred on the Commission by the act of June 7, 1897 (30 Stat., 84), and further by section 21, act of June 26, 1898 (30 Stat., 495, 502). Therefore this Department holds that no jurisdiction was given the Commission, or to the courts on appeal therefrom, to exclude persons having tribal recognition and borne on the tribal rolls, but that such persons, notwithstanding prior adverse action by the Commission, or the courts, are entitled

to enrollment under the act of 1898 and supplementary acts, unless their inscription on the tribal rolls was procured by fraud or was without authority of law. Such has been the rule of this Department since decision in the case of Wiley Adams, May 21, 1903, discussed and concurred in by the Assistant Attorney-General, Interior Department (Opinions of March 24, 1903), in cases of Benjamin J. Vaughn and Mary Elizabeth Martin. In Vaughn's case counsel for the nation assented to it as the proper rule.

To determine the validity and the finality of the judgment of the Citizenship Court, as well as other questions arising in these cases, it is necessary to consider carefully the entire legislation of the Congress on this subject.

The act of June 10, 1896 (29 Stat. 321, 339), directed the Commission to the Five Civilized Tribes in the Indian Territory to continue the exercise of the authority theretofore conferred upon them to negotiate with such tribes for the extinguishment of the tribal title to their lands, by the cession of the same or a part thereof to the United States, or their allotment in severalty to the members of such tribes, with a view to the ultimate creation of a State or States embracing such lands.

That act also provided:

That said commission is further authorized and directed to proceed at once to hear and determine the application of all persons who may apply to them for citizenship in any of said nations, and after such hearing they shall determine the right of such applicant to be so admitted and enrolled: Provided, however, That such application shall be made to such Commissioners within three months after the passage of this Act. The said Commission shall decide all such applications within ninety days after the same shall be made, That in determining all such applications said commission shall respect all laws of the several nations or tribes, not inconsistent with the laws of the United States, and all treaties with either of said nations or tribes, and shall

give due force and effect to the rolls, usages, and customs of each of said nations or tribes. And provided, further, That the rolls of citizenship of the several tribes as now existing are hereby confirmed, and any person who shall claim to be entitled to be added to said rolls as a citizen of either of said tribes and whose right thereto has either been denied or not acted upon, or any citizen who may within three months from and after the passage of this Act desire such citizenship, may apply to the legally constituted court or committee designated by the several tribes for such citizenship, and such court or committee shall determine such application within thirty days from the date thereof.

In the performance of such duties said commission shall have power and authority to administer oaths, to issue process for and compel the attendance of witnesses, and to send for persons and papers, and all depositions and affidavits and other evidence in any form whatsoever heretofore taken where the witnesses giving said testimony are dead or now residing beyond the limits of said Territory, and to use every fair and reasonable means within their reach for the purpose of determining the rights of persons claiming such citizenship, or to protect any of said nations from fraud or wrong, and the rolls so prepared by them shall be hereafter held and considered to be the true and correct rolls of persons entitled to the rights of citizenship in said several tribes: Provided, That if the tribe, or any person, be aggrieved with the decision of the tribal authorities or the commission provided for in this Act, it or he may appeal from such decision to the United States district court: Provided, however, That the appeal shall be taken within sixty days, and the judgment of the court shall be final.

That the said commission, after the expiration of six months, shall cause a complete roll of citizenship of each of said nations to be made up from their records, and add thereto the names of citizens whose right may be conferred under this Act, and said rolls shall be, and are hereby, made rolls of citizenship of said nations or tribes, subject, however, to the determination of the United States courts, as provided herein.

The commission is hereby required to file the lists of members as they finally approve them with the Commissioner of Indian Affairs to remain there for use as the final judgment of the duly constituted authorities.

The act of June 7, 1897 (30 Stat. 62, 84) contained this provisions:

That said commission shall continue to exercise all authority heretofore conferred on it by law to negotiate with the Five Tribes, and any agreement made by it with any

one of said Tribes, when ratified, shall operate to suspend any provisions of this Act if in conflict therewith as to said nation. Provided, That the words "rolls of citizenship", as used in the Act of June tenth, eighteen hundred and ninety-six, making appropriations for current and contingent expenses of the Indian Department and fulfilling treaty stipulations with various Indian tribes for the fiscal year ending June thirtieth, eighteen hundred and ninety-seven, shall be construed to mean the last authenticated rolls of each tribe which have been approved by the council of the nation, and the descendants of those appearing on such rolls, and such additional names and their descendants as have been subsequently added, either by the council of such nation, the duly authorized Courts thereof, or the commission under the Act of June tenth, eighteen hundred and ninety-six. And all the other names appearing upon such rolls shall be open to investigation by such commission for a period of six months after the passage of this Act. And any name appearing on such rolls and not confirmed by the Act of June tenth, eighteen hundred and ninety-six, as herein construed, may be stricken therefrom by such commission where the party affected shall have ten days previous notice that said commission will investigate and determine the right of such party to remain upon such roll as a citizen of such nation: Provided, also, That any one whose name shall be stricken from the roll by such commission shall have the right of appeal, as provided in the Act of June tenth, eighteen hundred and ninety-six.

The Act of June 28, 1896 (30 Stat. 493, 502-3), provided:

Sec. 21. That in making rolls of citizenship of the several tribes as required by law, the Commission to the Five Civilized Tribes is authorized and directed to take the roll of Cherokee citizens of eighteen hundred and eighty (not including freedmen) as the only roll intended to be confirmed by this and preceding Acts of Congress, and to enroll all persons now living whose names are found on said roll, and all descendants born since the date of said roll to persons whose names are found thereon; and all persons who have been enrolled by the tribal authorities who have heretofore made permanent settlement in the Cherokee Nation whose parents, by reason of their Cherokee blood, have been lawfully admitted to citizenship by the tribal authorities, and who were miners when their parents were so admitted; and they shall investigate the right of all other persons whose names are found on any other rolls and omit all such as may have been placed thereon by fraud or without authority of law, enrolling only such as may have lawful right thereto, and their descendants born since such rolls were made, with such inter-married white persons as may be entitled to citizenship under Cherokee laws.

X X X X X X

The Secretary of the Interior.

-6-

Said commission is authorized and directed to make correct rolls of the citizens by blood of all the other tribes, eliminating from the tribal rolls such names as may have been placed thereon by fraud or without authority of law, enrolling such only as may have lawful right thereto, and their descendants born since such rolls were made, with such intermarried white persons as may be entitled to Choctaw and Chickasaw citizenship under the treaties and the laws of said tribes.

X X X X X
The rolls so made, when approved by the Secretary of the Interior, shall be final, and the persons whose names are found thereon, with their descendants thereafter born to them, with such persons as may intermarry according to tribal laws, shall alone constitute the several tribes which they represent.

The act of May 31, 1900 (31 Stat. 221,236), provided:

That said commission shall continue to exercise all authority heretofore conferred upon it by law, but it shall not receive, consider, or make any record of any application of any person for enrollment as a member of any tribe in the Indian Territory who has not been a recognized citizen thereof, and duly and lawfully enrolled or admitted as such, and its refusal of such application shall be final when approved by the Secretary of the Interior.

The act of March 3, 1901 (31 Stat. 1036,1077), contained this provisions

The rolls made by the Commission to the Five Civilized Tribes, when approved by the Secretary of the Interior, shall be final, and the persons whose names are found thereon shall alone constitute the several tribes which they represent; and the Secretary of the Interior is authorized and directed to fix a time by agreement with said tribes or either of them for closing said rolls, but upon failure or refusal of said tribes or any of them to agree thereto, then the Secretary of the Interior shall fix a time for closing said rolls, after which no name shall be added thereto.

The act of July 1, 1902 (32 Stat. 641) ratified an agreement made by the Commission to the Five Civilized Tribes with the Commission representing the Choctaw and Chickasaw Tribes. This agreement was subsequently ratified by these two nations as required therein. In regard to rolls of citizenship it provided:

27. The rolls of the Choctaw and Chickasaw citizens and Choctaw and Chickasaw freedmen shall be made by the Commission to the Five Civilized Tribes, in strict compliance with the act of Congress approved June 28, 1898 (30 Stat., 495), and the act of Congress approved May 31, 1900 (31 Stat. 221), except as herein otherwise provided: Provided, That no person claiming right to enrollment and allotment and distribution of tribal property, by virtue of a judgment of the United States court in the Indian Territory under the act of June 10, 1896 (29 Stat., 321), and which right is contested by legal proceedings instituted under the provisions of this agreement, shall be enrolled or receive allotment of lands or distribution of tribal property until his right thereto has been finally determined.

28. The names of all persons living on the date of the final ratification of this agreement entitled to be enrolled as provided in section 27 hereof shall be placed upon the rolls made by said Commission; and no child born thereafter to a citizen or freedman and no person intermarried thereafter to a citizen shall be entitled to enrollment or to participate in the distribution of the tribal property of the Choctaws and Chickasaws.

29. No person whose name appears upon the rolls made by the Commission to the Five Civilized Tribes as a citizen or freedman of any other tribe shall be enrolled as a citizen or freedman of the Choctaw or Chickasaw nations.

30. For the purpose of expediting the enrollment of the Choctaw and Chickasaw citizens and Choctaw and Chickasaw freedmen, the said Commission shall, from time to time, and as early as practicable, forward to the Secretary of the Interior lists upon which shall be placed the names of those persons found by the Commission to be entitled to enrollment. The lists thus prepared, when approved by the Secretary of the Interior, shall constitute a part and parcel of the final roll of citizens of the Choctaw and Chickasaw tribes and of Choctaw and Chickasaw freedmen, upon which allotment of land and distribution of other tribal property shall be made as herein provided. Lists shall be made up and forwarded when contents of whatever character shall have been determined, and when there shall have been submitted to and approved by the Secretary of the Interior lists embracing names of all those lawfully entitled to enrollment, the rolls shall be deemed complete. The rolls so prepared shall be made in quintuplicate, one to be deposited with the Secretary of the Interior, one with the Commissioner of Indian Affairs, one with the principal chief of the Choctaw Nation, one with the governor of the Chickasaw Nation, and one to remain with the Commission to the Five Civilized Tribes.

31. It being claimed and insisted by the Choctaw and Chickasaw nations that the United States courts in the Indian Territory acting under the Act of Congress approved June 10, 1896, have admitted persons to citizenship or to enrollment as such citizens in the Choctaw and Chickasaw nations, respectively, without notice of the proceedings in such courts being given to each of said nations; and it being insisted by said nations that, in such proceedings, notice to each of said nations was indispensable, and it being claimed and insisted by said nations that the proceedings in the United States courts in the Indian Territory, under the said Act of June 10, 1896, should have been confined to a review of the action of the Commission to the Five Civilized Tribes, upon the papers and evidence submitted to such commission, and should not have extended to a trial de novo of the question of citizenship; and it being desirable to finally determine these questions the two nations, jointly, or either of said nations acting separately and making the other a party defendant, may, within ninety days after this agreement becomes effective, by a bill in equity filed in the Choctaw and Chickasaw citizenship court hereinafter named, seek the annulment and vacation of all such decisions by said courts. Ten persons so admitted to citizenship or enrollment by said courts, with notice to one but not to both of said nations, shall be made defendants to said suit as representatives of the entire class of persons similarly situated, the number of such persons being too numerous to require all of them to be made individual parties to the suit; but any person so situated may, upon his application, be made a party defendant to the suit. Notice of the institution of said suit shall be personally served upon the chief executive of the defendant nation, if either nation be made a party defendant as aforesaid, and upon each of said ten representative defendants, and shall also be published for a period of four weeks in at least two weekly newspapers having general circulation in the Choctaw and Chickasaw nations. Such notice shall set forth the nature and prayer of the bill, with the time for answering the same, which shall not be less than thirty days after the last publication. Said suit shall be determined at the earliest practicable time, shall be confined to a final determination of the questions of law here named, and shall be without prejudice to the determination of any charge or claim that the admission of such persons to citizenship or enrollment by said United States courts in the Indian Territory was wrongfully obtained as provided in the next section. In the event said citizenship judgments or decisions are annulled or vacated in the test suit hereinbefore authorized, because of either or both of the irregularities claimed and insisted upon by said nations as aforesaid, then the files, papers and proceedings in any citizenship case in which the judgment or decision is so annulled or vacated,

shall, upon written application therefor, made within ninety days thereafter by any party thereto, who is thus deprived of a favorable judgment upon his claimed citizenship, be transferred and certified to said citizenship court by the court having custody and control of such files, papers and proceedings, and upon the filing in such citizenship court of the files, papers and proceedings in any such citizenship case, accompanied by due proof that notice in writing of the transfer and certification thereof has been given to the chief executive officer of each of said nations, said citizenship case shall be docketed in said citizenship court, and such further proceedings shall be had therein in that court as ought to have been had in the court to which the case was taken on appeal from the Commission to the Five Civilized Tribes, and as if no judgment or decision had been rendered therein.

32. Said citizenship court shall also have appellate jurisdiction over all judgments of the courts in Indian Territory rendered under said Act of Congress of June tenth, eighteen hundred and ninety six, admitting persons to citizenship or to enrollment as citizens in either of said nations. The right of appeal may be exercised by the said nations jointly or by either of them acting separately at any time within six months after this agreement is finally ratified. In the exercise of such appellate jurisdiction said citizenship court shall be authorized to consider, review, and revise all such judgments, both as to findings of fact and conclusions of law, and may, whenever in its judgment substantial justice will thereby be subserved, permit either party to any such appeal to take and present such further evidence as may be necessary to enable said court to determine the very right of the controversy. And said court shall have power to make all needful rules and regulations prescribing the manner of taking and conducting said appeals and of taking additional evidence therein. Such citizenship courts shall also have like appellate jurisdiction and authority over judgments rendered by such courts under the said act denying claims to citizenship or to enrollment as citizens in either of said nations. Such appeals shall be taken within the time hereinafter specified and shall be taken, conducted and disposed of in the same manner as appeals by the said nations, save that notice of appeals by citizenship claimants shall be served upon the chief executive officer of both nations: Provided, That paragraphs thirty-one, thirty-two and thirty-three hereof shall go into effect immediately after the passage of this Act of Congress.

33. A court is hereby created to be known as the Choctaw and Chickasaw Citizenship Court, the existence of which shall terminate upon the final determination of the suits and proceedings named in the last two preceding sections, but in

no event later than the thirty-first day of December, nineteen hundred and three. Said court shall have all authority and power necessary to the hearing and determination of the suits and proceedings so committed to its jurisdiction, including the authority to issue and enforce all requisite writs, process and orders, and to prescribe rules and regulations for the transactions of its business. It shall also have all the powers of a circuit court of the United States in compelling the production of books, papers and documents, the attendance of witnesses, and in punishing contempt. Except where herein otherwise expressly provided, the pleadings, practice and proceedings in said court shall conform, as near as may be, to the pleadings, practice and proceedings in equity causes in the Circuit Courts of the United States. The testimony shall be taken in court or before one of the judges, so far as practicable. Each judge shall be authorized to grant, in vacation or recess, interlocutory orders and to hear and dispose of interlocutory motions not affecting the substantial merits of the case. Said court shall have a chief judge and two associate judges, a clerk, a stenographer, who shall be deputy clerk, and a bailiff. The judges shall be appointed by the President, by and with the advice and consent of the Senate, and shall each receive a compensation of five thousand dollars per annum, and his necessary and actual traveling and personal expenses while engaged in the performance of his duties. The clerk, stenographer, and bailiff shall be appointed by the judges, or a majority of them, and shall receive the following yearly compensation: Clerk, two thousand four hundred dollars; stenographer, twelve hundred dollars; bailiff, nine hundred dollars. The compensation of all these officers shall be paid by the United States in monthly installments. The moneys to pay said compensation are hereby appropriated, and there is also appropriated the sum of five thousand dollars, or so much thereof as may be necessary, to be expended under the direction of the Secretary of the Interior, to pay such contingent expenses of said court and its officers as to such Secretary may seem proper. Said court shall have a seal, shall sit at such place or places in the Choctaw and Chickasaw nations as the judges may designate, and shall hold public sessions beginning the first Monday in each month, so far as may be practicable or necessary. Each judge and the clerk and deputy clerk shall be authorized to administer oaths. All writs and process issued by said court shall be served by the United States marshal for the district in which the service is to be had. The fees for serving process and the fees of witnesses shall be paid by the party at whose instance such process is issued or such witnesses are subpoenaed, and the rate or amount of such fees shall be the same as is allowed in civil causes in the circuit court of the United States for the western district of Arkansas. No fees shall be charged by the clerk or other officers of

said court. The clerk of the United States court in Indian Territory, having custody and control of the files, papers, and proceedings in the original citizenship cases, shall receive a fee of two dollars and fifty cents for transferring and certifying to the citizenship court the files, papers, and proceedings in each case, without regard to the number of persons whose citizenship is involved therein, and said fee shall be paid by the person applying for such transfer and certification. The judgment of the citizenship court in any or all of the suits or proceedings so committed to its jurisdiction shall be final. All expenses necessary to the proper conduct, on behalf of the nations, of the suits and proceedings provided for in this and the two preceding sections shall be incurred under the direction of the executives of the two nations, and the Secretary of the Interior is hereby authorized, upon certificate of said executives, to pay such expenses as in his judgment are reasonable and necessary out of any of the joint funds of said nations in the Treasury of the United States.

It appears that the agreement in these paragraphs provides for the establishment of the Choctaw and Chickasaw Citizenship Court, and gives it jurisdiction of a test suit to annul and vacate the decisions of the United States courts in the Indian Territory admitting persons to citizenship and enrollment as citizens of the Choctaw and Chickasaw nations, respectively, on the ground of want of notice to both of said nations and because the United States courts tried such cases ex parte, with a right in the event such judgments should be annulled because of either or both of the irregularities mentioned, on the part of any party thus deprived of a favorable judgment to remove his case to the Citizenship Court, where such further proceedings were to be had therein "as ought to have been had in the court to which the same was taken on appeal from the Commission to the Five Civilized Tribes and if no judgment or decision had been rendered therein; and also "appellate jurisdiction over all judgments of the courts in Indian Territory, rendered under said act of Congress of June

tenth, eighteen hundred and ninety-six, admitting persons to citizenship or to enrollment in either of said nations." In the exercise of such appellate jurisdiction the citizenship court was "authorized to consider, review, and revise all such judgments, both as to findings of fact and conclusions of law, and may, whenever in its judgment substantial justice will thereby be subserved, permit either party to any such appeal to take and present such further evidence as may be necessary to enable said court to determine the very right of the controversy."

It will be noted that the agreement further provides (paragraph 33) that "the judgment of the citizenship court in any of all of the suits or proceedings so committed to its jurisdiction shall be final."

The agreement also contained this provision:

34. During the ninety days first following the date of the final ratification of this agreement, the Commission to the Five Civilized Tribes may receive applications for enrollment only of persons whose names are on the tribal rolls but who have not heretofore been enrolled by said Commission, commonly known as "delinquents", and such intermarried white persons as may have married recognized citizens of the Choctaw and Chickasaw Nations in accordance with the tribal laws, customs and usages on or before the date of the passage of this Act of Congress, and such infant children as may have been born to recognized and enrolled citizens on or before the date of the final ratification of this agreement; but the application of no person whatsoever for enrollment shall be received after the expiration of the said ninety days: Provided, That nothing in this section shall apply to any person or persons making application for enrollment as Mississippi Choctaws, for whom provision has herein otherwise been made.

By the act of April 21, 1904 (33 Stat. 189, 204), it was provided that the Commission to the Five Civilized Tribes should conclude its work and terminate on or before July 1, 1906, and cease to exist on that date, the powers theretofore conferred

upon it being continued.

By the act of March 3, 1906 (33 Stat., 1048, 1060), it was provided "that the work of completing the unfinished business, if any, of the Commission to the Five Civilized Tribes shall devolve upon the Secretary of the Interior, and that all the powers heretofore granted to the said Commission to the Five Civilized Tribes are hereby conferred upon the said Secretary on and after the first of July, nineteen hundred and five."

By the Act of April 26, 1906 (34 Stat., 137), it was provided:

That after the approval of this act no person shall be enrolled as a citizen or freedman of the Choctaw, Chickasaw, Cherokee, Creek, or Seminole tribes of Indians in the Indian Territory, except as herein otherwise provided, unless application for enrollment was made prior to December first, nineteen hundred and five, and the records in charge of the Commissioner to the Five Civilized Tribes shall be conclusive as evidence as to the fact of such application; and no motion to reopen or reconsider any citizenship case, in any of said tribes, shall be entertained unless filed with the Commissioner to the Five Civilized Tribes within sixty days after the date of the order or decision sought to be reconsidered except as to decisions made prior to the passage of this act, in which cases such motion shall be made within sixty days after the passage of this act. x x x x x

By that act the rolls of citizenship of the several tribes were required to be completed by March 4, 1907.

After very carefully considering this legislation, in the light of the circumstances under which it was enacted, I am constrained to the conclusion that the Citizenship Court had jurisdiction of the cases now under consideration, and that its judgment therein is final.

By the act of June 10, 1896, the Commission to the Five Civilized Tribes was "authorized and directed to proceed at once

to hear and determine the application of all persons who may apply to them for citizenship in any of said nations." It is true that this act also confirmed the then existing rolls of the several tribes, but the question whether an applicant was, as matter of fact, already duly enrolled upon one of the rolls so confirmed constituted, in my opinion, an issue upon which the Commission was authorized and required to pass. The applicant may be fairly held to have waived by his application the conclusiveness of the confirmation of the rolls in his case.

Independently, of any such waiver, I do not see how the proposition that the Commission did not have jurisdiction of the case of a person whose name was upon a tribal roll can be maintained, in the face of the provision of the act of June 10, 1896, that "in determining all such applications said Commission shall X X X X give due force and effect to the rolls, usages and customs of each of said nations or tribes." I think that act left it to the Commission to determine whether or not the applicant was upon a roll which was confirmed, and evidently it did not so hold in these cases.

It is unnecessary, however, to determine what might have been the effect of an adverse judgment in the case of an applicant whose name was upon a roll so confirmed, for such confirmation was certainly and very materially modified by the act of June 7, 1897, and apparently altogether withdrawn by the act of June 20, 1898. The act of June 7, 1897, provided that the words "rolls of citizenship" as used in the act of June 10, 1896, should be con-

strued to mean the "last authenticated rolls of each tribe which have been approved by the council of the nation." I am informed that there never was any such an authenticated roll of the Choctaw Tribe, either at the time of the passage of the act of June 10, 1896, or subsequently thereto. Moreover, by the act of June 26, 1896, it was provided that in making rolls of citizenship of the several tribes, the Commission should take the Cherokee roll of 1850 as the only roll intended to be confirmed by that and preceding acts of Congress: it seems to be clear from the further provisions of the Act that the Congress did not here refer to the Cherokee rolls only but had in mind those of all the Tribes. To my mind, however, the decisive consideration is that Congress, knowing there were certain cases of contested citizenship in the Choctaw and Chickasaw Nations, referred these cases, under carefully defined conditions, to the Citizenship Court and made the determination of that Court in these cases final. This provision of law repealed, as to cases in this category, any inconsistent provisions (if any there were) in the act of 1896 or any other prior act. These cases were unquestionably within the terms of the law; the claimants had been admitted to citizenship by decisions of the United States courts, and it seems clear that, under the agreement with the Choctaw and Chickasaw Nations ratified by the act of July 2, 1902, it was intended that the Citizenship Court should have a revisory jurisdiction of judgments of the United States courts in the Indian Territory in citizenship cases, irrespective of the grounds on which these suits had been entered.

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tained by the said courts. That agreement was made after the confirmation given to the tribal rolls had been qualified if not withdrawn, and, we must presume, with a knowledge of the fact that the Commission, under the act of June 10, 1896, had exercised jurisdiction in the case of persons whose names appeared upon some of the rolls of the tribes. Its action seems to show that Congress did not intend to confirm any roll of the Chectaw and Chickasaw tribes, but, however, that may be when, with a knowledge of all that had gone before, it created the Citizenship Court, this was done, in my opinion, with the evident purpose of giving it jurisdiction of all citizenship cases which had been decided by the United States courts for the Indian Territory on appeal from the judgments of the Commission. As neither Congress nor the Nations made any distinction in the act and agreement referred to as to the cases of persons whose names were on a tribal roll which might have been confirmed by the act of June 10, 1896, if Congress had not decided otherwise, I do not think any other authority can make this distinction. Indeed, as I have suggested, the applicants themselves, having voluntarily submitted to the jurisdiction of the Commission, might be fairly held estopped to now deny it.

I understand that it is not contended, nor do I think it could be successfully maintained, that any authority to review the judgments of the Citizenship Court was intended to be conferred upon you by Congress when it made the rolls, as finally compiled, subject to your approval (see paragraph 20 of the agreement rat-

fied by the act of July 1, 1902). Neither do I think that the provision in the act of April 26, 1906, above quoted, as to enrolling persons and entertaining motions to reopen or reconsider citizenship cases, was intended to recognize or confer any such authority the purpose of that provision being simply to limit the time in which the authority previously conferred might be exercised. To hold thus would be to treat the later act as a repeal of so much of the former as expressly declared the judgments of the Citizenship Court to be final, which seems to be untenable.

This disposes of the cases of Myrtle Randolph and her brother W. J. Thompson: whatever their intrinsic merits, these claims have been finally decided adversely to the claimants by the judgment of the Citizenship Court.

2. The second case is that of Cyrus H. Kingsbury and Lucy B. Littlepage, in regard to whom you say:

Cyrus H. Kingsbury and Lucy B. Littlepage are children of John Parker-Kingsbury and wife, Hannah Mariah, white, affiliated by act of the Choctaw Council of November 15, 1864, which enacted:

That all rights, privileges and immunities of Choctaw citizens are hereby granted unto John Parker-Kingsbury and to his wife Hannah Mariah, and they shall enjoy all the benefits to which the citizens of this nation may hereafter be entitled, except in the participation of any sum of money which may now be due the nation under treaty stipulations heretofore made.

Both applicants were born in the Choctaw Nation and have always resided there as its recognized citizens. Both are on the tribal Choctaw 1888 census roll, Atoka County, Nos. 819, 821. September 7, 1896, they applied to the Commission to the Five Civilized Tribes under the act of June 10, 1896, were enrolled, and no appeal was taken. Cyrus H. Kingsbury is on the 1896 Choctaw census roll. Lucy B. Littlepage is on the partial roll of Choctaw citizens by

blood, and her husband, Patrick M. Littlepage, is on the roll of intermarried citizens--both rolls approved by the Secretary of the Interior, October 21, 1904. Patent, signed and executed by the principal chief of the Choctaw nation, conveying to Cyrus M. Kingsbury allotted tribal lands as a citizen by blood, is now before the Secretary of the Interior for approval, but is not yet approved, or delivered. No objection to occupation of tribal lands was ever made against either applicant as an intruder.

Paragraph 27 of the agreement with the Choctaw and Chickasaw Nations ratified by the act of July 1, 1902, provides that the rolls of Choctaw and Chickasaw citizens shall be made by the Commission to the Five Civilized Tribes "in strict compliance" with the acts of June 28, 1896, and May 31, 1900.

Section 21 of the act of June 28, 1896, after providing that in making rolls of citizenship of the several tribes the Commission shall take the roll of Cherokee citizens of 1880 as the only roll intended to be confirmed by that and preceding acts of Congress, and providing for the enrollment of the Cherokees, authorizes and directs the Commission "to make correct rolls of the citizens by blood of all the other tribes, eliminating from the tribal rolls such names as may have been placed thereon by fraud or without authority of law, enrolling such only as may have lawful right thereto, and their descendants born since such rolls were made, with such intermarried white persons as may be entitled to Choctaw and Chickasaw citizenship under the treaties and the laws of said tribes."

It might be held that the only white persons intended to be enrolled by this act were such intermarried ones as were entitled to citizenship under the treaties and laws of the tribes,

if it were not for the reference to the tribal rolls, on which as appears from your statement as to these parties, there were undoubtedly the names of adopted whites. The only names which the Act declares shall be eliminated from the tribal rolls are those placed thereon by fraud or without authority of law, and it is not suggested that the names of these parties were open to either of these objections.

Light, it seems to me, is thrown on this matter by the act of May 31, 1900, which was also directed to be strictly complied with in making the rolls of citizenship of these tribes. That act is plainly intended to be of a restrictive nature, yet a fair construction of it would seem to authorize the enrollment of these parties. It provides that the Commission shall continue to exercise all authority theretofore conferred upon it by law, "but it shall not receive, consider, or make any record of any application of any person for enrollment as a member of any tribe in the Indian Territory who has not been a recognized citizen thereof, and duly and lawfully enrolled or admitted as such, and its refusal of any such application shall be final when approved by the Secretary of the Interior."

This act recognizes the authority of the Commission to receive, consider and record the application of a recognized citizen of any of the tribes referred to who has been duly and lawfully enrolled or admitted as such, its refusal of the application of any person not so qualified being made final when approved by the Secretary of the Interior.

These applicants appear to possess all of these qualifications. Your letter states that they were born and have always resided in the Choctaw Nation as its recognized citizens; that their names appear upon various tribal rolls, and that they were admitted by the Commission in 1896 as citizens, no appeal from the decision of the Commission being taken by the nation. That they were duly and lawfully enrolled by the tribal authorities would seem to result from the fact that both of their parents had been adopted into the tribe, and the failure to contest the action of the Commission in admitting them would indicate that their citizenship rights were regarded as indisputable.

You say that you would not have doubt that these applicants, born to the allegiance of the Choctaw Nation, are entitled to be enrolled, but for the report of my predecessor to the President of February 24, 1906, in the case of persons without Indian blood and the order to you of February 27, 1906, that "in the President's judgment, without reference to the act of Congress, it is perfectly clear equity demands that the son of white parents, who has no Indian blood in his veins, even though one of these parents has been adopted into the tribe, should not be treated as an Indian."

The report of Mr. Needy and the order of the President thereon, had reference to the case of children of white persons, one of whom had previously acquired Indian citizenship by virtue of his marriage into the Choctaw tribe, but had afterwards, upon the death of his Indian spouse, married a white person. Mr. Needy

was of opinion that the right of citizenship acquired by an inter-married white was a personal right, and could not be conferred upon children by such subsequent marriage, which is also the view taken by the Citizenship Court.

I see no reason to question the soundness of that conclusion, assuming that the matter is still open for consideration. It is expressly provided by the Choctaw act of November 9, 1875, providing for the intermarriage of whites with Choctaws, that a white person intermarrying into the tribe in pursuance of the act should forfeit his rights of citizenship acquired thereunder if upon the death of his Indian spouse he married "a white man or woman, or person, as the case may be, having no rights of Choctaw citizenship by blood."

I am aware that it has been held by one of the United States Courts in the Indian Territory that this law is inconsistent with the treaty of April 28, 1866, but, with great respect for the said court, I do not ^{so} consider it. That treaty provides:

Article 28. Every white person who, having married a Choctaw or Chickasaw, resides in the said Choctaw or Chickasaw Nation, or who has been adopted by the legislative authorities, is to be deemed a member of said nation and shall be subject to the laws of the Choctaws and Chickasaw Nations according to his domicile, and to prosecution and trial before their tribunals, and to punishment according to their laws in all respects as though he was a native Choctaw.

This article merely recognizes a pre-existing custom of the Choctaw and Chickasaw Nations as to the intermarriage and adoption of white persons, and cannot fairly be said to have been intended to prevent them from decitizenizing an intermarried person for good cause: and what better cause could there be than that

the tie which bound him to the tribe, and because of which alone citizenship was granted, was broken?

An act of the Choctaw Nation, approved October 30, 1896, providing for the enrollment of Choctaw citizens, provided that "the Commission shall enroll as citizens all who come under any one of the following heads, and all such persons are hereby declared citizens of the Choctaw Nation:"

X X X X X
V. All white men who have married Choctaw women by blood in strict conformity to the laws of the Choctaw Nation of 1875 regulating inter-marriage, or the Chickasaw law of 1876 regulating intermarriage, and have not been divorced from same nor married any other than a Choctaw woman by blood since said marriage.

X X X X X
VIII. All white women who have married Choctaws by blood legally and have not been divorced from them nor since married any other than a Choctaw by blood, a recognized citizen and resident of the Choctaw or Chickasaw Nation.

X X X X X
That act further provided that "the Commissions are especially prohibited from enrolling as citizens any persons coming under the following heads:"

X X X X X
II. The children of any marriage where neither the father nor mother are Choctaws by blood, though one or both of said children's parents may have enjoyed intermarried rights.

III. All persons who, though they had at one time intermarried rights, afterwards married a person not a Choctaw by blood (being the father or mother of Choctaw children shall not save a person from this clause).

X X X X X
VI. All white persons who have been admitted to citizenship with their wife or husband by the General Council and afterward the wife or husband, Choctaw by blood, dying, the surviving party, being a white person, has intermarried with a person not a Choctaw by blood.

It is clear that, at least since 1878, the Choctaw Nation never intended that a White person, intermarrying into the tribe, should have power to confer citizenship upon his children by a subsequent marriage to other than a citizen by blood. The informal opinion of Attorney General Moody unquestionably had reference to cases of this character.

The case of the present applicants is quite different from that just referred to. Here both parents were adopted into the tribe. It must have been contemplated that they might have children, and if so, what was to be their citizenship if not that of their parents?

The facts in the present case answer this inquiry. Your letter states that these applicants have always been recognized as citizens of the Choctaw Nation, that their names appear on the tribal census roll of 1888, as well as upon the rolls prepared in pursuance of the Choctaw act of October 30, 1896. It seems clear, therefore, irrespective of the action of the Commission in admitting them as citizens in pursuance of the authority granted to it by the act of June 10, 1896, that they are clearly entitled to be enrolled for allotment purposes.

3. The Case of Loula (or Lula West, et al.

It appears from the papers in this case that Loula West applied to the Commission to the Five Civilized Tribes, pursuant to the Act of June 10, 1896, for admission to citizenship in the Cho-

law Nation, and was admitted as a citizen by blood; that the Cheetaw Nation appealed to the United States Court for the Central District of the Indian Territory, which affirmed the judgment of the Commission; that this judgment was annulled and vacated by the judgment of the Citizenship Court in the test case provided for by the Act of July 1, 1908 (32 Stat. 641, 647); and thereupon she removed her case to that court, which ~~had~~ denied her application.

This case is similar to that of Murtie Randolph and her brother W. J. Thompson, children of Giles Thompson, above referred to, in that it involves the question of the finality of the judgment of the Citizenship Court, it being contended that the Commission in the first instance and the Citizenship Court ultimately on appeal had no jurisdiction of the case because at the time of her application to the Commission her name was upon a tribal roll.

For the reasons heretofore stated, I think this contention is not well founded, and that the Citizenship Court had jurisdiction of such cases, and its judgments therein were final.

4. The Case of William C. Thompson et al.

In this case the record shows that Thompson applied to the Commission to the Five Civilized Tribes, pursuant to the act of June 10, 1896, for the enrollment of himself, his wife, and children with the exception of a daughter, Mary M. McNeese, who made a separate application for herself, her husband, a white man, and their children. The Commission denied Thompson's application, and also that of his daughter. No appeal was taken from these

judgments, and it is contended, on behalf of the Nation, that under the act of June 10, 1896, they were final and conclusive against the right of these parties to be enrolled.

The claimants, however, rely upon the fact that their names appear upon the tribal roll prepared in pursuance of the Choctaw acts of September 18, and October 30, 1896.

In my judgment, the action of the Commission, under the act of June 10, 1896, not having been appealed from was final and conclusive against the right of these parties to be admitted to citizenship, and the Choctaw nation, even if it attempted to do so, had no right thereafter to admit them. It will be observed that the act of June 10, 1896, provided that applications should be made to the Commission within three months after the passage of the act, and that the Commission should decide all such applications within ninety days after they were made; that the rolls of citizenship of the several tribes as then existing were confirmed, and "any person who shall claim to be entitled to be added to said rolls as a citizen of either of said tribes and whose right thereto has either been denied or not acted upon, or any citizen who may within three months after the passage of this Act desire such citizenship, may apply to the legally constituted court or committee designated by the several tribes for such citizenship, and such court or committee shall determine such application within thirty days from the date thereof;" and that "if the tribe, or any person be aggrieved with the decision of the tribal authorities of the Commission provided for in this Act, it or he may appeal from such decision to the United States

District Court: Provided, however, That the appeal shall be taken within sixty days, and the judgment of the court shall be final."

As I read this act, it authorized application to be made either to the Commission to the Five Civilized Tribes or the "legally constituted court or committee" of such tribes, with a right of appeal by the party aggrieved by the decision of either to the United States court. Therefore and in view also of the fact that the act contemplated contemporaneous action by the Commission and the tribal courts, I think it clear that the provision that "any person who shall claim to be entitled to be added to said rolls (the existing rolls of the tribe) as a citizen of either of said tribes whose right thereto has either been denied or not acted upon", had reference to a previous denial or failure to act of the tribal authorities, and not to the subsequent action or non-action of the Commission, the tense of the verbs-"has either been denied or not acted upon", not "shall be denied or not acted upon"-indicating that past action or non-action was referred to. Prior to the passage of this act the Commission had no jurisdiction of these citizenship matters.

When, therefore, as here, the claimant had applied to the Commission to be admitted and enrolled, and his application denied, his only remedy, under the act in question, lay in an appeal to the United States court. It is true Thompson claims to have received no notice of the denial of his application by the Commission, but that is not a valid excuse.

But aside from this question of jurisdiction in the Cheateau

Nation to admit persons to citizenship who had been denied by the Commission, it appears that the Nation never undertook to authorize the admission or enrollment of these parties, and that, in any aspect of the case, they were enrolled without authority of law and their names should, in pursuance of the mandate in the act of Congress of June 20, 1896, be eliminated from the tribal rolls.

The Cheetaw Nation does not appear to have proceeded under the authority of the act of Congress of June 10, 1896, authorizing the establishment by the several tribes of a court or committee for the purpose of passing upon applications for citizenship as provided therein. It was not until September 18, 1896, ten days after the expiration of the period in which applications for citizenship were to be submitted to the "legally constituted court or committee" of the tribes under the act of June 10, 1896, that the Chee law Council passed the act above referred to. That act provided for the appointment of census commissioners in each county, with authority "to enroll all recognized citizens of the Cheetaw Nation by blood, intermarriage and adoption who are recognized as citizens of the Cheetaw Nation under the treaties, constitution and law of the said nation." It further provided that "the rolls when completed by said commissioners shall be certified to by said commissioners and delivered to the Principal Chief of the Cheetaw Nation on or before the twentieth day of October, 1896, to be revised and approved by the next General Council of the Cheetaw Nation."

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It is manifest that this act conferred no power upon such commissioners to admit any person to citizenship, but only to enroll "recognized citizens". Yet in virtue thereof one of the county committees assumed to pass upon a petition prepared by Thompson's attorney, under date of August 1, 1896, and addressed to the General Council of the Choctaw Nation, "at its regular session October 1896, "praying that "all rights, privileges, and immunities of the Choctaw Nation" be granted to himself, his wife, family and certain other relatives, "and they be enrolled with the legal citizenship of said Nation."

This petition does not appear ever to have been presented to the Choctaw Council or referred by any competent authority to the committee which assumed to pass upon it. Upon its back is the following endorsement:

William C. Thompson together with the names appearing on the face of the within application, lineal descendants of Margaret McCoy are hereby recognized and admitted to the citizenship of the Choctaw Nation or Tribe of Indians by the legally constituted Choctaw Census Commission duly assembled at Kiewa, I.T. this the 8th day of October, 1896, upon the testimony of Henry Perkins, Mrs. Levinia Franklin, they being enrolled Choctaw Indians by blood. The within named parties not being present were passed for further enrollment.

A. G. Folsom,
Secretary of Census Committee.

This was a manifest attempt to exercise an authority not delegated to the committee.

On October 30, 1896, the Choctaw Council, at its regular session, passed an act creating three commissions, one from each District, one member of each of which to be designated as "Chief Commissioner", "to make a complete roll of the citizens of the Choctaw Nation." By that act it was made the duty of said com-

missions "to examine the rolls made by the commissions under the act of September 18, 1896, and also to expunge from said rolls of September 18, 1896, the names of all persons whom they shall adjudge not to be citizens". It was further provided:

The Commission shall enroll as citizens all who come under any of the following heads, and all such persons are hereby declared citizens of the Cheetaw Nation:

I. All Cheetaws by blood born and raised in the Cheetaw Nation.

II. All Cheetaws by blood who have been admitted to citizenship by the General Council and now residents of the Nation.

X X X X X

It was provided that "at the expiration of the time allowed the commissions in each District, the Chief Commissioner shall meet at Tushka House at their earliest convenience and not later than the first Monday in December 1896, and shall revise the Rolls made by their respective District Commissions during the succeeding ten days after they meet". The Chief Commissioners were authorized to "enroll the name of any citizen who for any good cause failed to appear before the District Commissions". It was further provided that "the Roll as completed and signed by the Chief Commissioners, when approved by the Principal Chief, shall be the legal and authorized Roll of citizens of the Cheetaw Nation".

These parties were enrolled by the registry board, but that their enrollment was unauthorized is clear. The act just referred to only authorized the enrollment of Cheetaws by blood who were "born and raised" in the Cheetaw Nation or had "been admitted to citizenship by the General Council." The applicants per-

possessed neither of these qualifications. According to his own statement, William C. Thompson was not raised in the Choctaw Nation, having been taken to Mississippi shortly after his birth, and returning only once during his boyhood for about a year. It is further stated that he remained in Mississippi until the war, when he went to Texas, not returning again to the Choctaw Nation until 1867. He had never been "admitted to citizenship by the General Council." His wife and children could claim no greater rights than he possessed. The other applicants named in his petition were descendants of his brother, who was born in Mississippi and whose record appears to be otherwise about the same as William C. Thompson's.

Moreover, it appears from the opinion of the Assistant Attorney General for the Interior Department of March 24, 1906, in the case of Mary Elizabeth Martin, that on July 17, 1897, the Principal Chief of the Choctaw Nation advised the Commission to the Five Civilized Tribes that he had refused to approve the last revised roll made in accordance with the act of October 30, 1896, because he was satisfied there were some names thereon "that have been registered through fraud or misrepresentation." As such approval was necessary in order to make the roll so prepared "the legal and authorized roll of citizens of the Choctaw Nation," it would seem that in no aspect of the case could these parties be said to be lawfully admitted and enrolled.

It further appears that these applicants, or some of them including William C. Thompson, applied in 1900 to the Commission

for the Five Civilized Tribes for identification as Mississippi Choctaws under the following provision of section 21 of the act of June 20, 1830:

Said commission shall have authority to determine the identity of Choctaw Indians claiming rights in the Choctaw lands under article fourteen of the treaty between the United States and the Choctaw Nation concluded September twenty-seventh, eighteen hundred and thirty, and to that end they may administer oaths, examine witnesses, and prepare all other acts necessary thereto and make report to the Secretary of the Interior.

Article 14 of the treaty of September 27, 1830, provided:

ARTICLE XIV. Each head of a family being desirous to remain and become a citizen of the States shall be permitted to do so, by signifying his intention to the Agent within six months from the ratification of this Treaty, and he or she shall thereupon be entitled to a reservation of one section of six hundred and forty acres of land, to be bounded by sectional lines of survey; in like manner shall be entitled to one half that quantity for each unmarried child which is living with him over ten years of age; and a quarter section to such child as may be under 10 years of age, to adjoin the location of the parent. If they reside upon said lands intending to become citizens of the States for five years after the ratification of this Treaty, in that case a grant in fee simple shall issue; said reservation shall include the present improvement of the head of the family, or a portion of it. Persons who claim under this article shall not lose the privilege of a Choctaw citizen, but if they ever remove are not to be entitled to any portion of the Choctaw annuity.

The only evidence adduced in any way tending to show a compliance with the terms of this article were statements to the effect that William C. Thompson's grandfather applied for land under the treaty of 1830 but was refused by the Indian agent. Congress, however, by the acts of March 3, 1837, and August 23, 1842, (5 Stat. 180, 513), appointed Commissioners for the purpose of adjusting claims of this kind, and there was no evidence to the effect

that the ancestors of the claimants had endeavored to comply with the provisions of those acts, or received patents or certificates for land as therein provided for. The Commission properly held, therefore, that it was impossible to identify the applicants as Mississippi Choctaws.

Upon the whole case, it seems to me clear that these applicants, and those claiming intermarried rights with them, should be denied enrollment.

The other cases consolidated with this are of a similar nature, and under the views above stated the parties referred to therein are, in my judgment, not entitled to be enrolled.

5. The Case of Richard B. Coleman et al.

The enrollment of the parties referred to in this case depends upon the effect to be given to the following act of the General Council of the Choctaw Nation passed November 8, 1889:

An Act to establish the citizenship of R. B. Coleman, his wife and their children.

Sec. 1. Be it enacted by the General Council of the Choctaw Nation Assembled, That Richard Benjamin Coleman, and their children, as follows: Richard St. Clair, age 14 years, Ida Clay, age 13, Bennetta, age 11, Bettie Withers, age 9, Henry Alan, age 6, Willie Herman Coleman, age 4 years, are hereby admitted to citizenship in the Choctaw Nation with its rights, privileges, and immunities, and that this act shall take effect and be in force from and after its passage.

It is contended that this act was procured by fraud and bribery, and that, therefore, the names of Coleman and his family should be eliminated from the tribal rolls upon which they appear, under the act of Congress of June 20, 1898, which provides:

Said Commission is authorized and directed to make correct rolls of citizens by blood of all the other tribes, eliminating from the tribal rolls such names as may have been placed thereon by fraud or without authority of law, enrolling such only as may have lawful right thereto x x x .

The Commission held that they had no authority to go behind the act of the Choctaw Council referred to, but in an informal opinion rendered you December 7, 1904, Acting Attorney General Day, after quoting the above provision, said:

It appears to me the above quoted provisions of the statute impose upon the Commission to the Five Civilized Tribes the duty and gave it the power to determine whether any name appearing upon a tribal roll was placed there by fraud or without authority of law, and that the mere fact that such enrollment was by virtue of an act of the National Council is not sufficient to preclude an inquiry. An act of the Council should be treated with respect as prima facie valid and efficacious, and getting done as the result thereof should be lightly set aside; but if it clearly appears that the act was procured by deliberate fraud and perjury I do not think that Congress intended that benefits thereunder should be enjoyed.

Mr. Day did not pass upon the facts of this case. Subsequently, the Assistant Attorney-General for the Interior Department, upon a consideration of the record, held that it did not clearly appear therefrom that the act in question had been fraudulently procured.

In my judgment the record in this case clearly shows deliberate fraud on the part of Richard B. Coleman in procuring the passage of the act admitting him to citizenship. It appears that Coleman came into the Choctaw Nation about 1880. In 1887 he made application to the citizenship committee of the Choctaw Council for admission as a citizen by blood, representing by himself and witnesses he brought before the committee that his father was a Choctaw boy named Frank Coleman, the son of a John

Coleman and Chapponia, a full blood Choctaw, who had lived in Mississippi with his parents prior to the migration in 1830. The boy Frank it was testified, had been sent to Kentucky to school and nothing afterwards heard of him.

The testimony adduced on behalf of the Nation before the Commission to the Five Civilized Tribes shows that the father of Coleman was Francis S. Coleman, a son of a Francis Coleman who was born and raised in Orange County, Virginia, and was not a Choctaw. This testimony was given in the form of a deposition by Mrs. Harriet Henry, a sister of Francis S. Coleman, and R. L. Coleman a nephew, residing at Columbia, Missouri. The identity of Francis S. Coleman with the father of the applicant appears from the fact testified to by the applicant as well as the two witnesses just referred to, that he married Ann Elizabeth Bedford, the daughter of John Bedford, in Kentucky, and the testimony of all parties that Francis S. Coleman went to Denton, Texas, and died there. Although duly advised as to the intention of the attorneys for the Choctaw Nation to take this testimony, no effort was made by Coleman or his attorney to file cross interrogatories or in any way rebut it, but they confined themselves to an endeavor to have the testimony stricken from the records as not having been taken in accordance with law. The authority of the Commission to take the testimony in this was is clear, under the act of June 25, 1896 (30 Stat., 495), which provides

Said commission shall make such rolls descriptive of the persons thereon, so that they may be thereby identified, and it is authorized to take a census of each of said tribes, or

to adopt any other means by then deemed necessary to enable them to make such rolls.

This testimony was further enforced by another deposition of said R. L. Coleman, taken by Commissioner Tamm Nixon, in which R. L. Coleman stated further that he knew the applicant Richard B. Coleman, that he was his cousin. A motion was likewise made to strike this testimony from the record, because taken without notice to the applicant, but it was overruled by the Commission, who held that under the authority of the above act they could take such measures as they deemed necessary to satisfy themselves as to the justice of the applicant's claim. I do not think it is shown that they abused their discretion in this matter.

It appears that the application of Richard B. Coleman to be enrolled as a citizen by blood of the Nation, upon the grounds above stated, was passed over by the citizenship committee of the Council in 1887; taken up again in 1888 and a bill of rejection passed by the committee of the council; renewed at the session of 1889, and a bill of admission introduced into the House of Representatives which was rejected, and then a new bill introduced and enacted into the law above quoted.

I think it sufficiently appears from the testimony in this case, particularly that given by and on behalf of the applicant himself, that the Council in admitting him and his family to citizenship did so upon the strength of the testimony adduced by him before the Committee on Citizenship that he was a Cheetan by blood, descended as he represented. It is to be observed that he and his family all claim that he was admitted as a Cheetan by blood.

Some testimony was introduced for the purpose of showing that Coleman had bribed one Beckwith, the member of the Council who introduced the second bill, but the evidence on that point is not sufficient to establish the fact.

In October, 1890, the General Council of the Cheetaw Nation passed an act repealing the act of November 8, 1889, admitting Coleman and his family to citizenship? This act was, however, disapproved by President McKinley, upon the recommendation of the Secretary of the Interior, under the authority of the act of Congress of June 28, 1890, which required the approval of the President to all acts of the Cheetaw and Chickasaw Nations in any manner affecting the lands of the tribes.

Although this act was thus invalidated, it may fairly be taken to indicate the sense of the Nation at that time that Coleman was improperly admitted. The reason for its disapproval does not appear but it might reasonably have been rejected on the ground that by the act of June 28, 1890, the work of making up the rolls of citizenship and eliminating therefrom those placed thereon by fraud was committed entirely to the Commission to the Five Civilized Tribes.

It is to be observed that Commissioner Rixby, who was the only Commissioner who considered this case on its merits, was "clearly of the opinion from such evidence as has been presented to this Commission that the evidence presented to and acted upon by the Citizenship Committee of the Cheetaw General Council, which passed upon the petition of these applicants, and upon which evidence their admission to Cheetaw Citizenship was based, was fraudulent, false,

and misleading."

In my opinion, these parties should be stricken from the rolls

6. The Case of Ethel Pierson.

This case presents the question of your authority to enroll the children of Choctaw freedmen who were miners living March 4, 1906. The decision of this question turns upon the construction to be given to section 2 of the Act of April 26, 1906 (34 Stat., 137), as amended by the Act of June 21, 1906 (34 Stat. 342).

The act referred to originally provided:

Sec. 2. That for ninety days after approval hereof applications shall be received for enrollment of children who were minors living March fourth, nineteenth hundred and six, whose parents have been enrolled as members of the Choctaw, Chickasaw, Cherokee, or Creek Tribes, or have applications for enrollment pending at the approval hereof, and for the purpose of enrollment under this section illegitimate children shall take the status of the mother, and allotments shall be made to children so enrolled. If any citizen of the Cherokee tribe shall fail to receive the full quantity of land to which he is entitled as an allotment, he shall be paid out of any of the funds of such tribe a sum equal to twice the appraised value of the amount of land thus deficient. The provisions of section nine of the Creek agreement ratified by Act approved March first, nineteenth hundred and one, authorizing the use of funds of the Creek tribe for equalizing allotments, are hereby restored and reenacted, and after the expiration of nine months from the date of the original selection of an allotment of land in the Choctaw, Chickasaw, Cherokee, Creeker Seminole tribes, and after the expiration of six months from the passage of this Act as to allotments heretofore made, no contest shall be instituted against such allotments: Provided, That the rolls of the tribes affected by this Act shall be fully completed on or before the fourth day of March, nineteen hundred and seven, and the Secretary of the Interior shall have no jurisdiction to approve the enrollment of any person after said date: Provided further, That nothing herein shall be construed so as to hereafter permit any person to file an application for enrollment in any tribe where the date for filing application has been fixed by agreement between said tribe and the United States: Provided, That nothing herein shall apply to the intermarried

The Secretary of the Interior--

-35-

whites in the Cherokee Nation, whose cases are now pending in the Supreme Court of the United States.

The amendatory act provided, (34 Stat., 341-2):

That section two of the Act entitled "An Act to provide for the final disposition of the affairs of the Five Civilized Tribes in the Indian Territory, and for other purposes," approved April twenty-sixth, nineteen hundred and six, be, and the same is hereby, amended by striking out thereof the words "Provided further that nothing herein shall be construed so as to hereafter permit any person to file an application for enrollment in any tribe where the date for filing application has been fixed by agreement between said tribe and the United States: Provided further, That nothing herein shall apply to the intermarried whites in the Cherokee Nation whose cases are now pending in the Supreme Court of the United States." And insert in said Act in lieu of the matter repealed, the following) Provided further, That nothing herein shall be construed so as hereafter to permit any person to file an application for enrollment or to be entitled to enrollment in any of said tribes, except for minors the children of Indians by blood, or of freedmen members of said tribes, or of Mississippi Choctaws identified under the fourteenth article of the treaty of eighteen hundred and thirty, as herein otherwise provided, and the fact that the name of a person appears on the tribal roll of any of said tribes shall not be construed to be an application for enrollment.

In the agreement with the Choctaw and Chickasaw Nation ratified by the act of July 1, 1902 (32 Stat. 641), it was provided (paragraphs 1 and 3) that the words "member" or "members" and "citizen" or "Citizens", "whenever used in this agreement", shall be held to mean members or citizens of the Choctaw or Chickasaw tribe of Indians in Indian Territory, not including freedmen."

The Commissioner to the Five Civilized Tribes in passing upon this case held that, in view of the above definition, the act of April 26, 1906, as amended, was not intended to apply to the children of freedmen in the Choctaw and Chickasaw Nations, but only to those of the Cherokee and Creek Nations.

There would be some force in the argument that minors the children of freedmen members of the Choctaw Nation were not included,

in the Act of April 26, 1906, if it were not for the proviso substituted by the amendatory act of June 21, 1906. That proviso was, as the Commissioner said, "in the nature of a construction by Congress of the meaning intended to be conveyed by the section as originally enacted." It says, in so many words, that minors the children of freedmen members of said tribes (referring to all of the tribes, which are separately named in the preceding part of section 2, among them the Choctaw and Chickasaw tribes) may be enrolled. This definition settles the doubt that otherwise might have arisen as to the children of freedmen members of said tribes, as well as the children of Mississippi Choctaws. If, therefore, the Choctaw freedmen are members of said nation; the right of their children to be enrolled can to be questioned.

The Choctaw freedmen were adopted by an act of the General Council of the Nation approved May 21, 1863, entitled "An Act to adopt the freedmen of the Choctaw Nation", which provided (Report of Commissioner of Indian Affairs, 1864, p. XEV):

Whereas by the third and fourth articles of the treaty between the United States and the Choctaw and Chickasaw Nations, concluded April, 26, 1866, provision was made for the adoption of laws, rules, and regulations necessary to give all persons of African descent resident in said nations at the date of the treaty of Fort Smith, September 13, 1865, and their descendants, formerly held in slavery among said nations, all the rights, privileges, and immunities, including the right of suffrage, of citizens of said nations, except in the annuities, moneys, and public domain claimed by or belonging to said nations respectively; and also to give to such persons who were residents as aforesaid, and their descendants, 40 acres each of the lands of said nations on the same terms as Choctaws and Chickasaws, to be selected on the survey of said lands; until which said freedmen shall be entitled to as much land as they may cultivate for the support of themselves and families; and

Whereas the Choctaw Nation adopted legislation in the form of a memorial to the United States Government in regard to adopting freedmen to be citizens of the Choctaw Nation, which was approved by the principal chief November 2, 1880, setting forth the status of said freedmen and the inability of the Choctaw Nation to prevail upon the Chickasaws to adopt any joint plan for adopting said freedmen, and notifying the United States Government of their willingness to accept said freedmen as citizens of the Choctaw Nation in accordance with the third and fourth articles of the treaty of 1866 as a basis; and

Whereas a resolution was passed and approved November 5, 1880, authorizing the principal chief to submit the aforesaid proposition of the Choctaw Nation to adopt their freedmen to the United States Government; and

Whereas a resolution was passed and approved November 6, 1880, to provide for the registration of freedmen in the Choctaw Nation, authorizing the principal chief to appoint three competent persons in each district, citizens of the nation, whose duty it shall be to register all freedmen referred to in said third article of the treaty of 1866 who desire to become citizens of the nation in accordance with said treaty, and upon proper notification that the Government of the United States had acted favorably upon the proposition to adopt the freedmen as citizens, to issue his proclamation notifying all such freedmen as desire to become citizens of the Choctaw Nation to appear before said commissioner for identification and registration; and--

Whereas in the Indian appropriation act of Congress May 17, 1882, it is provided that either of said tribes may adopt and provide for the freedmen in said tribe in accordance with said third article: Now, therefore,

Be it enacted by the general council of the Choctaw Nation, that all persons of African descent resident in the Choctaw Nation at the date of the treaty of Fort Smith, September 13, 1866, and their descendants, formerly held in slavery by the Choctaws or Chickasaws, are hereby declared to be entitled to, and invested with all the rights, privileges, and immunities, including the right of suffrage, of citizens of the Choctaw Nation, except in the annuities, monies and the public domain of the nation.

Sec. 3. Be it further enacted, That all said persons are hereby declared to be entitled to forty acres each of the lands of the nation, to be selected and held by them under the same title and upon the same terms as the Choctaws.

It appears that this act was accepted by the Secretary of the Interior on behalf of the United States as a substantial compli-

The Secretary of the Interior--

-41-

ance with the terms of the treaty of 1866, and the moneys authorized to be paid by that treaty upon a compliance therewith were turned over to the Nation.

I am of opinion, therefore, that the Assistant Attorney General for the Interior Department was right in his conclusion that miners, the children of Chester freedom, living March 4, 1906, are entitled to be enrolled.

This disposes of the several cases submitted. The papers therein are herewith returned.

Respectfully,

Charles J. Benaparte,
Attorney General.

D.O.M.
G.W.W.
File 5-51.
D
6476

J.V.H.
J.V.H.
W.C.P.
J.V.L.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

March 1, 1909

Seal-- 17077
Office of Ind. Affairs
Rec. March 3-1909.

The Commissioner

to the Five Civilized Tribes.

Sir:

January 25, 1909, you were advised that the names of certain persons were inadvertently included in Departmental letter of January 19, 1909 (File 5-51); that such mistake was due to the fact that it was supposed they were enrolled upon schedules approved by the Department, when in fact, the only schedules upon which their names appear were disapproved, and that no action should be taken under the circumstances looking to the erasure of interlineations or notations, if any, from the disapproved schedules, in connection with their names.

The names of the persons referred to in said letter of January 25, 1909, are as follows:

Choctaws by Blood.

Roll No.

16103

Elizabeth Allen.

16112
16110
16106
16111
16105
16107
16108
16109
921
922
16104

George A. Bumgarner.
Loutitia Crutchfield.
Everett Crutchfield.
George W. Crutchfield.
Ida Crutchfield.
Ima Crutchfield.
Louvinia Crutchfield.
William Crutchfield.
Josephine LaFlere Long.
Mae Laflere Long.
David Ritter.

It now appears from the records of the Secretary's Office that there was a schedule approved May 21, 1904, by the Secretary of the Interior, and that the approval then given was cancelled by said Secretary at a later date, to-wit, June 28, 1904.

The name of Elizabeth Allen appears upon the schedule which was approved May 21, 1904, opposite the number 15531. Ida Crutchfield's name appears opposite No. 15553, while the other members of the Crutchfield family were given the numbers immediately following that assigned to her.

You are requested to cause a report to be prepared showing whether the records of your Office also show that an earlier schedule containing the names of said persons was approved May 21, 1904; also whether such approval was cancelled June 28, 1904. Please report also the reason for the attempted cancellation, and whether prior notice was given thereof.

It appears further that, in connection with the names of Elizabeth Allen and the Crutchfield family on the roll approved May 21, 1904, the names of Ardella Hickman, Ida M. Southard and Grever Randall are also to be found.

r

In connection with said names, it is desired that you will report what action, in your opinion, should be taken concerning the first of said persons; also whether the said Ida M. Southard and Grover Rnadall, respectively, are identical with the Ida M. Southard whose name appears opposite No. 15880 in the printed rolls of citizens by blood of the Choctaw Nation, and the Grover Randall whose name appears on page 8 of Departmental letter of January 19, 1909 (File 5-51), opposite No. 15928.

As appears from the above list, there were other persons besides the said Allen and Crutchfield whose names were enrolled on schedules which were finally disapproved by the Department; for example, George A. Bumgarner, Josephine Laflore Long and Jake Laflore Long.

Please report whether the names of these persons appear upon any prior approved schedule; also why it was that the Commissioner to the Five Civilized Tribes enrolled them upon the schedule which was disapproved by the Department, showing whether the Commissioner enrolled them thereon, of his own motion, or under decision or instructions from the Department.

By comparison of the roll approved May 21, 1904, with the printed rolls of Choctaws by blood, the Department finds that the numbers appearing thereon opposite the names of said persons were subsequently assigned to other citizens of the Choctaw Nation; thereby the series of roll numbers was kept perfect, but a material portion of the rolls was evidently sacrificed upon the supposition that it had become

worthless. Inquiry arises in this connection as to whether there were other approved schedules which were subsequently disapproved and thrown aside. Accordingly, it is desired that you also cause a report to be prepared covering this feature of the matter, showing all persons embraced in similar cases, with recommendation as to what action should be taken as to them. This will necessitate a statement as to why their names were stricken or cancelled from the rolls, and whether such action was taken without prior notice.

There is still another matter concerning which the Department desires report to be made. It is observed that the words "No person enrolled at this number" are to be found not infrequently opposite consecutive numbers on the pages of the printed rolls, and you are requested to advise the Department whether such words were substituted for the names of individuals appearing on disapproved schedules, and if such is the case, whether such disapproved schedules were approved at any time by the Department; also whether favorable decisions were ever rendered by the Department as to such persons prior to their enrollment upon such disapproved schedules.

For the sake of expedition, a partial report should be rendered at once concerning the said Elizabeth Allen and the various members of the Crutchfield family named above. The other matters referred to herein can be disposed of by subsequent reports.

Very respectfully,
Jesse E. Wilson.
Assistant Secretary.

Through the
Indian Office.

No. 894.

Department,
Wilson.
Washington, D.C.
March 1, 1909.

Calls attention to Departmental
letter of Jan. 25, 1909, in
regard to names of certain
persons that were inadvertently
included in Department letter
of Jan. 19, 1909, Ida Grutzhof
et al.

worthless. Inquiry arises in this connection as to whether there were other approved schedules which were subsequently disapproved and thrown aside. Accordingly, it is desired that you also cause a report to be prepared covering this feature of the matter, showing all persons embraced in similar cases, with recommendation as to what action should be taken as to them. This will necessitate a statement as to why their names were stricken or cancelled from the rolls, and whether such action was taken without prior notice.

There is still another matter concerning which the Department desires report to be made. It is observed that the words "No person enrolled at this number" are to be found not infrequently opposite consecutive numbers on the pages of the printed rolls, and you are requested to advise the Department whether such words were substituted for the names of individuals appearing on disapproved schedules, and if such is the case, whether such disapproved schedules were approved at any time by the Department; also whether favorable decisions were ever rendered by the Department as to such persons prior to their enrollment upon such disapproved schedules.

For the sake of expedition, a partial report should be rendered at once concerning the said Elizabeth Allen and the various members of the Crutchfield family named above. The other matters referred to herein can be disposed of by subsequent reports.

Very respectfully,
Jesse E. Wilson.
Assistant Secretary.

Through the
Indian Office.

Land

88228-08

17077-09

J B R

E B H

E B H

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS.

WASHINGTON, D.C.,-----March 6 -09

Respectfully referred to the Commissioner
to the Five Civilized Tribes, for
appropriate action.

John Francis, Jr.
Acting Chief Land Division.

1 Letter
dated Nov. 1, 09.

D 383-1909

DEPARTMENT OF THE INTERIOR,

WASHINGTON.

March 15, 1909.

File 5-51

Cherokee,
Creek
Choctaw.

The Commissioner to the

Five Civilized Tribes.

Sir:

There are inclosed herewith, for report and recommendation, fourteen letters from various persons relating to certain Indian citizenship cases.

In these cases it is to be determined whether any action should be taken pursuant to the opinion of the Supreme Court of November 30, 1908, in the case of John E. Goldsby.

Separate reports should be rendered in each of these cases. The inclosed letters relating thereto are identified as follows:

1. From Charles L. Shookley of Mannville, Oklahoma, dated March 7, 1909, relating to the enrolment of himself and the members of his family as citizens of the Choctaw Nation.
2. From Messrs. White and Hale, Lawyers, Poteau, Oklahoma, dated January 18, 1909, relating to the enrolment of Nera V. Powell, as an intermarried Choctaw.
3. From Messrs. White and Hale, Lawyers, Poteau, Oklahoma, dated January 29, 1909, relating to the Choctaw Intermarriage case of Nera Powell.

4. From Silas Sharp, by J. O. Pool of McAlester Oklahoma, as attorney and agent, undated, received by the Department January 11, 1909, relating to the Choctaw case of Silas Sharp, et al.

5. From Robbie J. Samuels Harrison of Collyer, Kansas, dated February 20, 1909, relating to the enrollment of himself (and perhaps others) as Cherokees (with 2 cent stamp).

6. Letter dated March 12, 1909; writer and subject same as in No. 5 above.

7. From William Hall, by J. O. Pool of McAlester, Oklahoma, as agent and attorney, undated, received by Department January 11, 1909, relating to the Choctaw cases of William M. Hall, Mary Pelina White, Louis B. Hall, Laura C. Burrows, John B. White, Annie Anglaw, Minnie L. Livingstone, and their children.

8. From Mars and Mars, attorneys-at-law, Sapulpa, Oklahoma, dated January 15, 1909, relating to the Creek case of Gussie Bigpond.

9. From Hon. Archibald Bonds of Claremore, Oklahoma, dated January 7, 1909, relating to the Cherokee case of Ora M. Bonds, nee Camp.

10. Letter, dated January 23, 1909; subject and writer same as in No. 9 above.

11. From Malinda C. Satterfield of Welesay, Oklahoma, dated January 7, 1909, relating to her enrollment as an Indian citizen, tribe not stated, but probably a Choctaw or Chickasaw.

12. From David C. Ward, by J. O. Pool of McAlester, Oklahoma,
as attorney and agent, undated, received by Department January
11, 1909, relating to the Choctaw case of David C. Ward, et al.

13. From J. O. Pool, McAlester, Oklahoma, dated February
3, 1909, relating to the Choctaw case of Alexander Beal, William
Hall, et al. and D. J. Ward, et

14. From W. S. Field, attorney-at-law, Washington, D. C.
dated February 15, 1909, relating to the Choctaw cases of
Martin F. and Myrtle Turner, Selden P. Lindsay, Mattie L.
Armstrong, et al., William Hall, et al., Silas Sharp, et al.,
B. J. Ward (or D. J. Ward) et al.

It is desired that, in preparing the reports herein re-
quested, you follow the general instructions, so far as the
same are applicable, contained in departmental letter of March
15, 1909 (File 5-51), and that such reports be transmitted
through the Indian Office to the end that they may be forwarded
with the recommendation of the Commissioner of Indian Affairs.

Very respectfully,

(Signed) Frank Pierce.

First Assistant Secretary.

14 enclosures.

(Send direct; copy to Indian Office).

D 301-1909

Muskogee, Oklahoma, April 14, 1909.

Subject:

Reporting on Departmental
Letter of March 2, 1909,
as to case of Mattie Shock-
ley, et al. analogous to case
of Minerva F. Swadley, et al.

The Honorable,

The Secretary of the Interior,

Sir:

Receipt is hereby acknowledged of Departmental letter of
March 2, 1909 (File 5-51) asking for reports on certain Choctaw
cases analogous to the case of Minerva F. Swadley, et al. and
directing that the report be made in the form of answers to
questions one to five inclusive in Departmental communication
of February 25, 1909, relative to Mattie L. Armstrong, and
that instead of question six the report should state whether
any attempt was made, directly or indirectly, to give notice
of the rescinding of Departmental decision favorable to the
applicant.

Reference is also made to Departmental letter of March 1,
1909 (File 5-51) asking for reports on the cases of all persons
whose names appear on schedules of Choctaws and Chickasaws
which were disapproved by the Department.

Secretary 2

I have the honor to state that the case of Mattie Shockley, et al. (Lula West case) is one of the cases included in both Departmental letters above referred to, and to report therein as follows:

It appears from the records of this office that on September 9, 1896, in the case entitled P. K. West, et al. versus the Choctaw Nation, 1896 Choctaw Citizenship Case Number 955, original application was made to the Commission to the Five Civilized Tribes under the provisions of the Act of Congress approved June 10, 1896 (29 Stat., 321) for admission of the applicants, Mattie Shockley (as Mattie L. Shockley), Felix K. West (as P. K. West), Ava Shockley, Callie Shockley and Elzora Shockley as citizens by intermarriage of the Choctaw Nation, and John R. Shockley (as Eddie Shockley), Lula West, Roy West, Ephraim B. Shockley, Mattie Shockley, Leverett Shockley, Charles L. Shockley, Albert Shockley, Lenora Parker (as Nora Parker), Albert H. Shockley (as Albert Shockley) and Ethel Shockley as citizens by blood of the Choctaw Nation; that on December 5, 1896, the Commission admitted the above applicants as citizens of the Choctaw Nation.

From this decision an appeal was taken by the Choctaw Nation to the United States Court for the Central District of Indian Territory, which court, in case Number 226 on the Citizenship Docket, affirmed the decision of the Commission admit-

Secretary 3

ting these applicants to citizenship in the Choctaw Nation.

On December 17, 1902, the Choctaw and Chickasaw Citizenship Court, created under the provisions of the Act of Congress approved July 1, 1902 (32 Stat., 681) "set aside, annulled, vacated and held for naught" the aforesaid judgment of the United States Court for the Central District of the Indian Territory. Thereafter the record in this case was certified to the Choctaw and Chickasaw Citizenship Court for a trial de novo, and this court, on March 21, 1904, in the case of F. K. West, et al. versus the Choctaw and Chickasaw Nations, Number 42 on the South McAlester Docket of said court, ordered, adjudged and decreed that all these applicants be denied and declared not citizens of the Choctaw Nation, and not entitled to enrollment as such citizens, or to any rights whatever flowing therefrom.

May 27, 1904, orders were entered of record by the Commission to the Five Civilized Tribes, dismissing the applications for the enrollment of Corine West, Elva May Shockley, Hurman Shockley, Mamie Shockley, Trevor M. Parker, Rudie F. Parker and William Leslie Parker as citizens by blood of the Choctaw Nation for the reason that their parents had been denied enrollment by a decree of the Choctaw and Chickasaw Citizenship Court.

December 16, 1904, Lula West, one of the applicants in this case, forwarded a petition to the President, praying him

Choctaw and Chickasaw Citizenship Court.

Secretary 4

to cause an investigation to be made of the allegations contained in said petition, and if the same were found to be true, to cause her name to be placed upon the final roll of citizens by blood of the Choctaw Nation.

This petition was on February 15, 1905 (I T D 10353-1904) forwarded by the Department to the Commission to the Five Civilized Tribes with instructions to permit the petitioner to submit such testimony in support of her claim as she might see fit and inclosed a copy of an opinion of the Assistant Attorney General for the Department of the Interior of February 10, 1905, wherein it was held that said Commission had jurisdiction to examine into the claimant's cause, and should adjudicate it upon its merits, regardless of the judgment of the Choctaw and Chickasaw Citizenship Court.

A motion for review was filed with the Department by the Attorneys for the Choctaw and Chickasaw Nations, and on December 13, 1905 (I T D 3380-1905) the Department forwarded a copy of an opinion of the Assistant Attorney General for the Department of the Interior of December 8, 1905 (I T D 3693-1905), wherein he adhered to his former opinion rendered February 10, 1905, and held that Lula West having on January 9, 1890, been admitted to citizenship in the Choctaw Nation by the Secretary of the Interior, the Commission to the Five Civilized Tribes had no jurisdiction under the Act of Congress of

Secretary 5

June 10, 1896, to pass upon her rights, and the United States Court for the Central District of Indian Territory, and the Choctaw and Chickasaw Citizenship Court on appeal were also without jurisdiction. Copies of this opinion were forwarded the applicant, Lula West, and her attorney of record on December 23, 1906.

Under the regulations adopted by the Commissioner to the Five Civilized Tribes January 2, 1906, there was filed on January 22, 1906, by Thomas Norman, of Ardmore, Indian Territory, attorney for the petitioners, a petition verified by Lula West, and submitted on behalf of Lula West, F. K. West, Roy West, Marie West, Corine West, Elzora Shookley, Ethel Jones, nee Shookley, Charles L. Shookley, Callie Shookley, Albert Shookley, Herman Shookley, Marie Shookley, Herbert E. Shookley, E. E. Shookley, Ava Shookley, Mattie Shookley, Leverett Shookley, Elva May Shookley, Plannee Shookley, Pauline Daniel, nee Shookley, Albert Shookley, Mattie L. Osburn, nee Shookley, Edie Shookley, Lenora Parker, nee Shookley, Treva Myrtle Barker, Lucie Franklin Parker, William Leslie Parker, and Albert R. Shookley, praying that they be enrolled as citizens of the Choctaw Nation.

All parties in interest were notified and a hearing was had in this case March 5, 1906.

Secretary 6

It appears from the record in this case that on July 15, 1889, on appeal from the adverse action of the Choctaw National Council, the United States Indian Agent, Leo E. Bennett, rendered a decision admitting John Shockley, now deceased, Mattie L. Shockley, William Shockley, now deceased, Elzera Shockley, Charles L. Shockley, Ephraim Shockley, Lula Shockley and Robert Shockley to Choctaw citizenship, said decision being on January 9, 1900, approved by the Secretary of the Interior.

The applicants contended that no such person as Robert Shockley existed; that this was an error and should have been Albert Shockley, now deceased, a son of John Shockley, the principal petitioner before the Indian Agent.

Upon an examination of the tribal rolls of the Choctaw Nation in the possession of this office, the names of John E. Shockley, Lula West, Roy West, Ephraim E. Shockley, Mattie Shockley, Charles L. Shockley and Albert Shockley are identified upon the 1893 Leased District Payment Roll of the Choctaw Nation, Chickasaw District, Numbers 501, 501, 502, 498, 499, 497 and 500 respectively.

March 19, 1906, the Commissioner to the Five Civilized Tribes rendered an opinion which rescinded the orders of the Commission to the Five Civilized Tribes of May 27, 1904, dismissing the applications for the enrollment of Corine West, Elva Kay Shockley, Burnan Shockley, Manie Shockley, Trevor M.

Secretary 7

Parker, Ludie F. Parker and William Leslie Parker, and, in accordance with the opinions of the Assistant Attorney General for the Department of the Interior of February 10, 1906 (I T D 10353-1904) and December 8, 1906 (I T D 1693-1905) in the case of Lula West (Loula West), held that John E. Shookley, Lula West, Roy West, Marie West, Corine West, Ephraim H. Shookley, Mattie Shookley, Leverett Shookley, Elva May Shookley, Charles E. Shookley, Albert Shookley, Herman Shookley, Mamie Shookley, Albert R. Shookley and Albert P. Shookley should be enrolled as citizens by blood of the Choctaw Nation, and that Mattie Osborn, Ava Shookley, Callie Shookley and Pauline Shookley should be enrolled as citizens by intermarriage of said Nation, under the Acts of Congress approved June 20, 1898 (30 Stat., 495) and July 1, 1902 (32 Stat., 641).

The Commissioner further held that the applications made for the enrollment of Felix E. West and Elzora Shookley as citizens by intermarriage of the Choctaw Nation and the applications for the enrollment of Lenora Parker, Trevor M. Parker, Ludie F. Parker, William Leslie Parker and Ethel Shookley as citizens by blood of said nation should be denied under the provisions of the Act of Congress approved June 20, 1898.

The applicants, Placese Shookley and Herbert E. Shookley, not being the children of recognized and enrolled citizens by

Secretary A

blood of the Choctaw Nation whose enrollment had been approved by the Secretary of the Interior prior to March 3, 1906, the applications for their enrollment as citizens by blood of the Choctaw Nation were dismissed without prejudice.

May 4, 1906, notice of this decision was forwarded the parties in interest by registered mail, and on the same date the original record in this case, together with the decision of March 19, 1906, was transmitted to the Department.

May 9, 1906, Thomas Herman forwarded a statement of exceptions to the decision in this case, in so far as it pertained to certain persons who were denied therein, and requested that the same be transmitted to the Secretary of the Interior, which was done May 14, 1906.

December 22, 1906 (Land 40199, 42796-1906) the Indian Office recommended that the decision of the Commissioner of March 19, 1906, be affirmed, and that, in the event the Department did affirm this decision, the Commissioner to the Five Civilized Tribes be directed to enroll the applicants, Plasse and Herbert A. Shockley, under Section two of the Act of Congress approved April 26, 1906 (34 Stat., 137). January 9, 1907 (I T D 25364-1906) the Secretary of the Interior affirmed the decision of the Commissioner to the Five Civilized Tribes of March 19, 1906, and directed that the office proceed with the adjudication of the claims of Plasse Shockley and

Secretary 9

Herbert B. Shockley under legislation enacted subsequent to the decision of March 19, 1906.

January 14, 1907 (I T D 25866-1906) this office was directed by the Department not to promulgate the decision of January 9, 1907 in this case and to return it at once direct to the Department as the parties in the case were not to be enrolled unless further advised by the Secretary of the Interior.

January 15, 1907 (I T D 313-1907) this office was advised, with reference to Departmental letters of January 9 and January 14, 1907, in the matter of the application for the enrollment of Mattie Shockley, et al. as citizens by blood of the Choctaw Nation, that, by direction of the President, the case would be submitted to the Attorney-General for his opinion and that no further action should be taken relative to these claimants until this office was further advised.

January 17, 1907, this office acknowledged receipt of Departmental letters of January 14, 1907 and January 15, 1907, and in conformity with the request of the Department, the communication of January 9, 1907, affirming the decision of the Commissioner to the Five Civilized Tribes of March 19, 1906, in the Choctaw enrollment case of Mattie Shockley, et al., together with the report of the Acting Commissioner of Indian

Secretary 10

Affairs of December 22, 1906, was returned direct to the Department.

February 23, 1907 (I T D 4564-1907) this office was directed by telegram from the Department, which was subsequently confirmed by letter of the same date, to inspect the partial rolls of citizens of the Choctaw and Chickasaw Nations to determine what persons were enrolled thereon contrary to the views expressed by the Attorney-General in his opinion of February 19, 1907. The office was further advised in said telegram that decisions of the Department, based upon opinions of the Assistant Attorney-General in favor of claimants in certain cases, among which was Loula West, et al., were recommended.

February 12, 1907, there were transmitted for the consideration of the Department, schedules of citizens of the Choctaw Nation, as follows:

Citizens by blood	Nos. 16160 to 16174, inclusive
Citizens by marriage	Nos. 1645 to 1649 inclusive
Minor citizens by blood	Nos. 919 to 920 inclusive

These schedules were composed of the persons who had been admitted by the Commissioner to the Five Civilized Tribes in his decision of March 19, 1906, in the case of Mattie Shockey et al. and Herbert E. Shockey and Plessie Shockey, whose names were scheduled without decisions in accordance with the provisions of the Act of Congress approved April 26, 1906.

Secretary 11

Inasmuch as the time within which persons could be enrolled and their enrollment approved by the Secretary of the Interior under the provisions of the Act of Congress approved April 26, 1906, was becoming very short, the schedules above described were prepared at this office without waiting for the opinion of the Attorney-General and were forwarded to the Department, in order that, if the opinion of the Attorney-General were favorable to their contention, the rights of these applicants might be protected by the Department without delay.

February 27, 1907, referring to Departmental letter of February 23, 1907, authorizing this office to cancel the enrollment of the persons included in the case of Loula West, et al. this office reported that the schedules above referred to had been transmitted to the Department on February 12, 1907, and recommended that the decision of March 19, 1906, be not approved and that the schedules containing the names of the persons included in this decision be disapproved by the Department.

February 28, 1907 (I T D 1402-1907) the Department, in view of the opinion of the Attorney-General of February 19, 1907, in the case of Loula West et al., rescinded its decision of January 9, 1907, in favor of the claimants in the case of Mattie Whockley, et al. and reversed the decision of this of-

Secretary 12

rice of March 12, 1906, favorable to the applicants.

March 1, 1907 (I T D 3680, 3684-1907) the Department advised this office that the schedules containing the names of the parties applicant in the case of Mattie Shockley, et al. (Loula West case) had been disapproved. A report of the Indian Office of February 28, 1907 (Land 16776-1907) was also transmitted.

March 13, 1907, the parties in interest in this case were advised of the action of the Department reversing the decision of the Commissioner of March 12, 1906 as to the persons admitted therein and affirming it as to the persons denied by said decision.

Inasmuch as the persons included in this case were never upon the approved rolls no certificates of allotment were issued to them. Contests were filed by them, but were dismissed after the action of the Department in denying their applications.

I have further to report that it does not appear from the records of this office that any attempt was made, directly or indirectly, to give the above named applicants notice of the proceedings looking to the rescinding of the decision of the Secretary of the Interior in their case.

Inasmuch as the record in this case is very full and complete, and it is believed that the applicants could not

Secretary 13

and anything thereto, this office has not forwarded to them notices as referred to in Departmental letter of March 11, 1909, relative to applications for restoration to citizenship status in the Five Civilized Tribes, and will withhold such action unless it is the wish of the Department that the same should be furnished these applicants.

However, if it is desired that the notices be forwarded, or if it is the wish of the Department that the parties applicant in cases of this character should be notified to have their attorneys submit written argument as to their contention that their case falls within the principles of the opinion of the Supreme Court in the Goldsby and Allison cases, this office will proceed to notify the applicants to this effect immediately upon receipt of advice from the Department, and will make supplemental report after their replies have been received.

Respectfully,

Commissioner.

Through the Commissioner
of Indian Affairs.

AD

Muskogee, Oklahoma, May 3, 1909.

Subject:

Reporting on Departmental letter
of March 25, 1909, relative to
enrollment case of Charles L.
Shockley, et al.

The Honorable,

The Secretary of the Interior,

Sir:

I have the honor to acknowledge receipt of Departmental letter of March 25, 1909 (File 6-51) inclosing, for report and recommendation, letters from various persons relating to Indian citizenship claims. In these cases it is to be determined whether any action should be taken pursuant to the opinion of the Supreme Court of November 30, 1908, in the case of John E. Goldsby.

Among these letters is one from Charles L. Shockley, of Kameville, Oklahoma, dated March 7, 1909, relative to the enrollment of himself and the members of his family as citizens of the Choctaw Nation, and, reporting in this matter I have the honor to advise that on April 14, 1909, a full report was made to the Department as to the consolidated Choctaw enrollment case of Mattie Shockley, et al. and as it appears that Charles L. Shockley is one of the parties to that case it is believed that

Secretary 2

no further report is necessary on the letter of Charles L.
Shuckley, which is herewith returned.

Respectfully,

Commissioner.

Through the Commissioner
of Indian Affairs.

Chester 6081

AB

7-6031

Muskogee, Oklahoma, January 8, 1910.

Mr. Charles L. Shockley,
Durwood, Oklahoma.

Sir:

Referring to the Choctaw enrollment cases of Mattie Shockley, et al. and Lulu West, et al., you are advised that on December 7, 1909, the Department held that no further action could or should be taken looking to the enrollment of the applicants therein.

Respectfully,

Acting Commissioner.

McM

Choctaw 6032

Lula West

Decision of Commissioner reversed by
Sec of INT in accordance with opinion
of atty. Gen. of Feb 19, 1907 and schedules
bearing names of these people were
disapproved March 1, 1907

March 1, 1909 Dept requests report

4-14-09

Trans. from 7-5191 5-20-06

Duplicate record bound See Pet C-16

6032

Choctaw 5191.

Muskogee, Indian Territory, March 20, 1903.

F. K. West,

Durwood, Indian Territory,

Dear Sir:

Receipt is hereby acknowledged of your letter of February 26, asking the present status of the persons included in the application of F. K. West, et al. for citizenship in the Choctaw Nation, which was made to this Commission in 1896. You state that the Commission rendered a decision favorable to the applicants.

In reply to your letter you are advised that it appears from our records that F. K. West, Callie Shockley, Ava Shockley and Elzora Shockley were admitted by this Commission under the provisions of the act of Congress of June 10, 1896, as intermarried citizens of the Choctaw Nation, and Mattie L. Shockley, Charles, Ephriam, Eddie Shockley, Lula West, Albert Shockley, Roy and Marie West, Mattie Shockley, Leverett, Albert, Ethel, Nora and Frank Shockley were admitted as citizens by blood of the Choctaw Nation. It further appears from our records that Richard Scott, Mary Ann Scott, Emerson Scott, Julia Scott, and Sophonie Langworth and her husband and two children not named were denied citizenship in the Choctaw Nation by this Commission under the act of Congress of June 10, 1896 above referred to.

P K W 2

It further appears that appeal was taken from the decision of the Commission to the United States Court for the Central District of the Indian Territory, which affirmed the decision of the Commission in its judgment of August 25, 1897, in court case Number 226 on the citizenship docket of said court.

You are informed that the vacation of the judgments of the United States Courts in Indian Territory, admitting persons to citizenship in the Choctaw and Chickasaw Nations, by the decree of the Choctaw-Chickasaw Citizenship Court of December 17, 1902, would presumably leave in effect the original decision of the Commission to the Five Civilized Tribes. The Commission, however, will not render any decisions in cases of this character until after March 25, 1903, when the time within which appeals can be taken to the Choctaw-Chickasaw Citizenship Court will have expired.

Respectfully,

Jame Bixby.

Chairman.

Choctaw 5191

Muskogee, Indian Territory, April 7, 1904.

F. K. West,

Ardmore, Indian Territory,

Dear Sir:

Receipt is hereby acknowledged of your letter of March 30, stating that on March 28 you were denied by the Citizenship Court, and further stating that at the time your application was made to the Dawes Commission in 1896 it was not intended to be an original application on the part of the Shockley family, but only as an application to be put on the rolls as made by the Dawes Commission. You further state that the Shockley family were admitted to citizenship in 1886 or 1887 and have always been recognized since that time as citizens of the Choctaw Nation and were on the 1893 roll. You therefore ask that you be placed upon the final rolls of citizens of the Choctaw Nation as made by this Commission. You also ask for an order to the Chickasaw Land Office to hold your lands as designated by you until your citizenship has been finally determined.

In reply to your letter you are advised that the Commission has been furnished a certified copy of the judgment of the Choctaw and Chickasaw Citizenship Court refusing your admission to citizenship in the Choctaw Nation. The Commission therefore has no further jurisdiction in your case.

Respectfully,

T. B. Needles

Commissioner in Charge

Checker 5191

Muskegee, Indian Territory, December 22, 1904.

Mrs. Loula West,

Ardmore, Indian Territory,

Dear Madam:

Receipt is hereby acknowledged of your letter of December 16, inclosing copy of petition filed by you with the President of the United States, and the same has been filed with the records of the Commission.

Respectfully,

Tamr Dixby.

Chairman.

Ardmore, I. T. december 16th, 1904.

To his Excellency, Theodore Roosevelt, President of the United
States of America,

Washington, D.C.

Dear Sir:

Your applicants in the within petition desire to bring the
matters set out therein to your personal attention. We fully
realize the immense amount of business before you, and well know
that your personal attention cannot be given to everything; and
yet at the same time we believe we will get the wrongs done us
righted if we can get the matter before your Excellency; so with
the hope that you may be able to grant us a personal hearing, we
humbly submit our cause into your hands, asking you to remember
that we are poor and ignorant Indians, and with no one to appeal
to except yourself, in whom will you permit us to say we fully
confide.

Very truly yours

Mrs Loula West, "Nee Shockley.

DEPARTMENT OF THE INTERIOR,

Received

DEC 21 1904

No. 10553

Indian Territory Division.

DEPARTMENT OF THE INTERIOR

FEB 10-1905.

Returned with No. 1484

inclosure 2 IND. TERR. DIV.

J.W.H

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

FHE

February 16, 1905.

D.C. 9044-1905.
I.T.D. 10353-1904
1484-1905.

LRS

Commission to the Five Civilized Tribes,
Muskogee, Indian Territory.

Gentlemen:

Inclosed herewith is a communication dated December 16, 1904, from Mrs. Loula West, of Ardmore, Indian Territory, forwarding a petition addressed to the President, praying him to cause an investigation to be made of the allegations contained in said petition, and, if said allegations are found to be true, to cause her name to be placed upon the final roll of the Choctaw Nation.

It appears from said petition that your Commission deems itself precluded from considering her case, by reason of a decision of the Choctaw-Chickasaw Citizenship Court denying her enrollment.

In an opinion dated February 10, 1905, approved by the Department, the Assistant Attorney General held that your Commission has jurisdiction to examine into the claimant's case, and should adjudicate it upon its merits, regardless of any judgment of the Citizenship Court.

Inclosed herewith is a copy of said opinion for your

guidance. You will permit the petitioner to submit such testimony in support of her claim as she may see fit.

Respectfully,

M. W. Miller

Acting Secretary.

3 inclosures.

C O P Y

(Copy)

I.T.D.
10383-1904.

J.R.W.
S.V.P.
W.C.P.

DEPARTMENT OF THE INTERIOR,

Office of the Assistant Attorney-General,
Washington,

February 10, 1905.

The Secretary of the Interior.

Sir:

I received by reference of December 23, 1904, with request for opinion thereon, the communication of Mrs. Loula West, addressed to the President, asking an investigation of the Choctaw citizenship case of herself and others of the same family.

The petition states that she is of Choctaw descent, born in Tennessee, removed to the nation twenty years ago, and has ever since resided there; that she applied to the Choctaw authorities for readmission and was denied, but appealed to the Indian agent, at Muscogee, the matter was fully heard, the agent found her claim proven, recommended her admission July 15, 1889, and this action was approved by the Secretary of the Interior, January 9, 1890; that she was regularly borne on the tribal rolls, and drew the leased district money payment in 1893, as shown by the authenticated rolls in the possession of the present commission.

She then states that she applied to the Dawes Commission under the act of June 10, 1896 (29 Stat., 321, 330), and was admitted, from which the Choctaw Nation appealed to the United States court for the central district of Indian territory, which affirmed

the judgment, after which the citizenship court, organized under the act of July 1, 1902 (32 Stat., 641, 646-8), annulled this judgment, and the cause was transferred to that court to be adjudicated, whereupon she filed a motion for dismissal of the cause upon the ground that the court had no jurisdiction of it, but the motion was overruled, and ultimately the court denied her enrollment.

She states that the Commission to the Five Civilized Tribes admit the justice of her claim to Choctaw citizenship, but deem themselves precluded from considering it by the judgment of the citizenship court, and she prays investigation of her case by the President and an order to the Secretary of the Interior that she be placed on the rolls, if such allegations are found to be true.

Accepting such allegations as true, for the purpose of discussion here, I am of the opinion that the Commission has ample jurisdiction to examine into the merits of her claim, and, if the facts are found to be as stated, that she is entitled to be enrolled.

The act of June 10, 1896, confirmed the tribal rolls, and under it the Commission had no jurisdiction or power to eliminate persons therefrom. In respect to such persons, already recognized as citizens on the tribal roll, they had no power other than identification and entry upon the roll by them to be prepared. Such action was not a decision of admission of such applicant to

citizenship, as that status already existed. In her case (as the facts are stated) it existed by virtue of her recognition and enrollment as a Choctaw by the Secretary of the Interior, January 9, 1890. That the Commission had no power to deny enrollment of such an applicant was decided by the Department, May 21, 1903, in the Choctaw case of Wiley Adams.

The United States Court, under the act of 1896, supra, had in citizenship cases no other jurisdiction than an appellate one, and from the very nature of such jurisdiction obtained no jurisdiction by an attempted appeal of a matter wherein the original tribunal had no jurisdiction. My opinion was so expressed in the recent Creek case of Mary C. Keifer (I.T.D. 5066-1902, 6236-1903). It follows that the attempted appeal by the Choctaw Nation in the case here under consideration, if the facts are as stated, vested no jurisdiction in the court to which the appeal was attempted to be taken, and, its judgment being essentially and necessarily a nullity, the citizenship court itself obtained no jurisdiction in the case by going through the form of annulling a judgment that for total want of original jurisdiction had never any validity or operation.

I am therefore of the opinion that the Commission to the Five Civilized Tribes have jurisdiction, upon the facts stated, to examine into the claimant's case, and should adjudicate it upon

its merits regardless of any judgment of the citizenship court.

Very respectfully,

Frank L. Campbell,

Assistant Attorney-General.

Approved:

February 10, 1908.

H. A. Hitchcock,
Secretary.

(COPY)

The Choctaw Nation.

vs.

J.E. Shockley, et als.

Before the U.S. Ind. Agt.

Union Agency, I.T.

March 26, 1889.

J. E. Shockley, the claimant in this case, bases his claim on the ground of being a lineal descendant of the Choctaw tribe of Indians. This claim is supported by the testimony of witnesses whose statements you will herein find. The case is hereby submitted for your action -- on the merits of the evidence.

Respt.

A. Telle,

Atty. for the Choctaw Nation

In appealed citizenship cases

(COPY).

Union Agency, Muskogee, I.T.,

March 26, 1889.

In the matter of

John E. Shookley

vs.

Disputed citizenship

Choctaw Nation.

Before the United States Indian Agent.

The claimant in the above styled cause by his attorney
confidently submits said case on its merits.

J. S. Standley,

Atty. for claimant.

(COPY).

Union Agency

Muskegee, Ind. Ter., July 15, 1889.

JOHN SHOCKLEY

vs.

CHOCTAW NATION.

OPINION OF LEO E. BENNETT, UNITED STATES INDIAN AGENT, ON
APPEAL TAKEN FROM DECISION OF THE CHOCTAW NATIONAL COUNCIL.

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The evidence in this case shows that in October, 1888, the claimant, John Shockley, filed a petition before the General Council of the Choctaw Nation, asking that all the rights, privileges and immunities of Choctaw citizenship be granted unto the petitioner, John Shockley, and his family, to wit: Mattie L. Shockley, his wife, and their several children as follows: William Shockley age 20 and his wife Klara Shockley age 18, Charles L. Shockley age 18, Ephraim Shockley age 16, Lula Shockley age 14 and Robert Shockley age 12: and that claimant based his petition upon the allegation that as, the petitioner is a Choctaw by blood, being the son of Nancy Shockley who was a half-breed Choctaw woman who lived and died in Tennessee and that after the death of petitioner's parents he went to live with his mother's half-sister, who is a fullblood Choctaw.

The evidence taken in the case before the Council consisted of a statement by Henry Wages that "the old people" meaning the old Choctaws, told affiant that Ephraim Shockley, who was the father of petitioner, had married a Choctaw woman and that the petitioner had always represented himself as a Choctaw. Wade Hampton, a venerable and intelligent old gentleman who is well known to me and who at

the time of giving his evidence before the Council was a Senator, stated that he knew petitioner in Tennessee in the year 1859 and subsequently and that petitioner was at that time living with a woman who claimed to be Choctaw and who talked Choctaw as well as English, that she had a mark known as "six town" and she was a member of that town; that affiant heard this woman claim petitioner as her nephew and that her general reputation was of being a Choctaw. Clayton Shockley who has been personally known to me for several years as a man of good repute and entitled to credit stated that he knew petitioner for forty years, that petitioner was considered a Choctaw from childhood, that he knew petitioner's father and mother and that Nancy Shockley, the mother of petitioner, was considered a Choctaw half-breed, that after the mother's death this Aunt Huldah, a half-sister of the mother and herself a Choctaw, a full blood, took charge of petitioner and raised him; that subsequently petitioner was sent off to learn a trade and thus separated from his Aunt Huldah and his brother and sister who are still living in Tennessee.

In support of his allegation the petitioner stated that his mother had told him he was an Indian but he did not remember if she said Choctaw; that his Aunt Huldah told him they were Choctaws; that Wade Hampton often came to their house and told him that he was a Choctaw, that his aunt spoke of her kin folks being in Mississippi and that she belonged to the "six town clan."

James Goad stated that he had known the Shockley family ever since he could remember and they were always called Choctaws; that the father of petitioner was a white man but the mother a half-

breed Chectaw, that they said they were Indians, were called Indians and looked like Indians, that he is fifty-five years of age.

By resolution approved October 29th, the Chectaw Council rejected the prayer of petitioner, and this review is upon his appeal from their decision.

In a communication of November 5th to this office, the petitioner states that upon the advice of Captain J.S. Standley, the present National Agent of the Chectaw Nation, returned home from Council and bought an improvement near Stringtown. That he came to the Chectaw Nation because Wade Hampton, to whom I have previously referred as a Senator and prominent Chectaw, wrote him that he would not have any trouble in establishing his right.

On November 28th, National Secretary Telle states officially that he reduced the statements of Clayton Shookley and Mat Goad to writing and that he is satisfied from their answers that they were honest in their opinions touching the same.

On November 30th Hon. B. F. Smallwood, Principal Chief of the Chectaw Nation, wrote this office that the evidence presented appeared to his mind to be worthy of consideration and he asks that the claim of said Shickley be examined for he "believed the same to be a bona-fide citizen of our Nation."

The evidence in this case is all ex-parte but has been taken before the Chectaw authorities and the attorney of that Nation, Mr. A. Telle, under date of March 26th, 1889, submits the case upon the merit of the evidence above summarized. In my opinion the petitioner has made out a strong case with presumptive evidence which is rather persuasive than convincing. All the evidence, both pro and con that can be obtained is herewith submitted. The Chectaw Nation

by its Chief Magistrate admits the justness of petitioner's prayer and rests the case upon the evidence as presented.

In such case as this it appears to me that there could only be one conclusion, for all the evidence is favorable to the petitioner and not only so but the Chief Magistrate of the Choctaw Nation frankly admits that it is his belief that the petitioner is a bona-fide citizen of the Choctaw Nation. In answer the Choctaw Nation rests entirely upon the Resolution of the Choctaw Council denying this petitioner's prayer. A denial is not evidence against petitioner's claims.

Having fully considered the premises it is my opinion that the petitioner, John Shockley, is a Choctaw Indian through his mother, Nancy Shockley, and as such is entitled to citizenship in the Choctaw Nation. I therefore decide this appeal in favor of the petitioner.

(Signed) Leo E. Bennett,

U. S. Indian Agent.

Refer in reply
to the following:

L
34241-1889

1 enclosure

(COPY) C.A.M.
R.V.B.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON, January 8, 1890.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to enclose, herewith, a letter of November 26, 1889, from Leo E. Bennett, Esq., Union Indian Agent at Muscogee, Indian Territory, transmitting the evidence in the case of John Shockley, and others, claimants to Choctaw citizenship, appealed from the adverse decision of the Choctaw National Council, and his findings in favor of the appellants.

Inasmuch as the claim is not contested by the Choctaw Authorities, before the Agent, it is not deemed necessary to review the evidence submitted by the claimant, which is admitted by the attorney for the Nation, to support the claim, and I have the honor to recommend that Agent Bennett's findings in the case be approved.

Very respectfully,

Your obedient servant,

T. J. Morgan,

Commissioner.

(Murchison)

(COPY).

DEPARTMENT OF THE INTERIOR.

Washington, January 9, 1890.

The Commissioner of Indian Affairs.

Sir:

I have considered the decision of U. S. Indian Agent L.E. Bennett, Union Agency, Indian Territory, in the matter of the claim of John Shockley and family, to Choctaw citizenship, which accompanied your communication of 8th instant, and in view of the fact that this claim is not contested by the Choctaw authorities, Agent Bennett's findings in favor of claimants, is, as recommended by you, approved.

The papers which accompanied your communication are herewith returned.

Very respectfully,

Geo. Chandler,

Acting Secretary.

193, Ind. Div. '90.

Nine enclosures.

Ardmore, I. T. december 16th, 1904.

To his Excellency, Theodore Roosevelt, President of the United
States of America,

Washington, D.C.

Dear Sir:

Your applicants in the within petition desire to bring the
matters set out therein to your personal attention. We fully
realize the immense amount of business before you, and well know
that your personal attention cannot be given to everything; and
yet at the same time we believe we will get the wrongs done us
righted if we can get the matter before your Excellency; so with
the hope that you may be able to grant us a personal hearing, we
humbly submit our cause into your hands, asking you to remember
that we are poor and ignorant Indians, and with no one to appeal
to except yourself, in whom will you permit us to say we fully
confide.

Very truly yours

Mrs Loula West, "Nee Shockley.

DEPARTMENT OF THE INTERIOR,
Received
DEC 21 1904
No. 10363
Indian Territory Division.

DEPARTMENT OF THE INTERIOR
FEB 10-1905.
Returned with No. 1484
inclosure 2 IND, TER. DEV.

Petition of F. K. West, et al.

Before His Excellency,

The President of the United States,

Washington, D.C.

Your petitioners herein Charles L. Shockley, Ephriam Shockley, Loula West, nee Shockley, and their Mother, Mattie L. Shockley and Elzora Shockley, wife of William Shockley, deceased, respectfully state that some of them are Indians by blood and the remainder of them are white people, who have intermarried with them, and that they all live in the Indian Territory, and have lived in this Territory for over twenty years and that during all the time they have been in the Indian Territory and all time before, your petitioners claimed to be of Choctaw descent, and claimed to be entitled to all the rights, privileges and immunities incident thereto; that on the -- day of _____ these parties above upon an appeal from the Council of the Choctaw Nation to the United States Indian Agent at Muskogee, Indian Territory, were on the 15th day of July, 1889, admitted to citizenship of the Choctaw tribe of Indians in virtue of the decision rendered on that day by the Honorable Lee E. Bennett, at that time the United States Indian Agent for the Five Civilized Tribes, who by virtue of his official position and the Laws of the United States, and of the Indian Nation, had authority to pass upon their claim for citizenship and jurisdiction to entertain the appeal heretofore mentioned and to admit your petitioners to the rights of citizenship for which they were prosecuting an application.

The judgment of the Indian Agent is as follows:

Union Agency

John Shockley, et al.

vs

Choctaw Nation

Muskogee, Indian Territory

July 15th, 1889.

Opinion of Leo E. Bennett.

United States Indian Agent on appeal taken from decision of the Choctaw National Council.

The evidence in this case shows that in October 1886, the claimant, John Shockley, filed a petition before the general Council of the Choctaw Nation, asking that all of the rights, privileges and immunities of Choctaw citizenship be granted unto the petitioner, John Shockley and his family, to wit:- Mattie L. Shockley, his wife, and their several children, as follows:- William Shockley, age twenty, and his wife, Elzora Shockley age eighteen, Charles L. Shockley age eighteen, Ephriam Shockley age sixteen, Lula Shockley age fourteen and Albert Shockley age twelve; and that claimant based his petition upon the allegation that he, the petitioner is a Choctaw by blood, being the son of Nancy Shockley, who was a half-breed Choctaw woman who lived and died in Tennessee and that after the death of petitioners parents he went to live with his Mother's half-sister, who is a full-blood Choctaw. The evidence taken in the case before the Council consisted of a statement by Henry Wade, that "the old people", meaning the old Choctaw told affiant that Ephriam Shockley, who was the father of petitioner had married a Choctaw woman, and that the petitioner had always represented himself as a Choctaw.

Wade Hampton, a venerable and intelligent old gentleman, who is well known to me and who at the time of giving his evidence before the Council was a Senator, stated that he knew petitioner in Tennessee in the year 1859, and subsequently and that petitioner was at that time living with a woman who claimed to be Choctaw, and who talked Choctaw as well as English; that she had a mark known as "Sixtown" and she was a member of that town; that affiant heard this woman claim petitioner as her nephew, and that her general reputation was of being a Choctaw.

Clayton Shockley who has been personally known to me for

3.

several years as a man of good reputation and entitled to credit stated that he knew petitioner for forty years; that petitioner was considered a Choctaw from childhood; that he knew petitioner's Father and Mother, and that Nancy Shockley, the Mother of petitioner was considered a Choctaw half-breed; that after the Mother's death this Aunt Huldah, a half-sister of the Mother and herself a Choctaw full-blood took charge of petitioner and raised him; that subsequently petitioner was sent off to learn a trade and thus separated from his Aunt Huldah and his brother and sister who are still living in Tennessee.

In support of his allegation the petitioner states that his mother had told him he was an Indian but did not remember if she said Choctaw; that his Aunt Huldah told him they were Choctaws; that Wade Hampton often came to their house and told him that he was a Choctaw; that his Aunt spoke of her kin folk being in Mississippi and that she belonged to the "Sixtown Clan".

James Good stated that he had known the Shockley family ever since he could remember and they were always called Choctaws; that the father of petitioner was a white man, but his mother was a half-breed Choctaw; that they were Indians, were called Indians and looked like Indians; that he is forty-five years of age.

By resolution approved October 29th the Choctaw Council rejected the prayer of petitioner and this review is upon his appeal from their decision.

In a communication of November 6th to this Office, the petitioner states that upon the advice of Captain J. S. Stanley, the present National Agent of the Choctaw Nation, he returned home from Council and bought an improvement near Stringtown; that he came to the Choctaw Nation because Wade Hampton, to whom I have previously referred as a Senator and prominent Choctaw wrote him that he would have no trouble in establishing his right.

4.

On November 28th National Secretary Tell states officially that he reduced the statements of Clayton Shockley and Mat Good to writing and that he is satisfied from their answers that they were thoroughly acquainted with the facts as stated; and that they were honest in their opinions touching the same.

On November 30th Honorable B. F. Smallwood, principal Chief of the Choctaw Nation, wrote this office that the evidence presented appeared to his mind to be worthy of consideration and he asked that the claims of said Shockley be examined for he believed the same to be a bona-fide citizen of our Nation.

The evidence in this case is all ex parte but has been taken before the Choctaw Authorities and the Attorney of that Nation, Mr. Telle, under date of March 28th 1889, submits the case upon the merit of the evidence above summarized.

In my opinion the petitioner had made out a strong case with presumptive evidence which is rather persuasive than convincing. All the evidence both pro and con that can be obtained is herewith submitted. The Choctaw Nation by its Chief Magistrate submits the justice of petitioners prayer and rests the case upon the evidence as presented.

In such a case as this it appears to me that there could only be one conclusion. For all the evidence is favorable to the petitioner and not only so but the Chief Magistrate of the Choctaw Nation frankly admits that it is his belief that the petitioner is a bona-fide citizen of the Choctaw Nation. In answer the Choctaw Nation rest entirely upon the resolutions of the Choctaw Council, denying petitioner's prayer. A denial is not evidence against petitioner's claim.

Having fully considered the premises it is my opinion that the petitioner, John Shockley, is a Choctaw Indian through his Mother, Nancy Shockley, and as such is entitled to citizenship in the Choctaw Nation.

5.

I therefore decide this appeal in favor of the petitioner.

(signed) Leo K. Bennett,

U. S. Indian Agent.

Your petitioner further states that the said Leo K. Bennett as United States Indian Agent, as aforesaid, did on the 26th day of November 1889, transmit all the papers in said cause together with the judgment, which he had rendered therein after due notice had been given to the Choctaw Authorities, to the Secretary of the Interior and the Commissioner of Indian affairs, that on January 8th, 1890, Commissioner of Indian affairs took under consideration the approval or rejection of the action of the United States Indian Agent for the Five Civilized Tribes admitting your petitioners to citizenship, and on said day last mentioned the Honorable T. J. Morgan, then Commissioner of Indian affairs made a recommendation to the Secretary of the Interior that the judgment of the United States Indian Agent for the Five Civilized Tribes in admitting these people to citizenship be approved; that on January 9th, 1890, Honorable George Chandler, then acting Secretary of the Interior passing upon the judgment of said United States Indian Agent for the Five Civilized Tribes, and upon the recommendation of the Commissioner of Indian affairs, approved of the judgment of the said Indian Agent and render judgment in accordance with the recommendation of the Commissioner of Indian Affairs. All the various matters herein above mentioned and set forth are of record in the various departments of the Secretary of the Interior, and are accessible and can be had.

Subsequently Congress passed an act on the 10th day of June 1896, directing the Commission to the Five Civilized Tribes, commonly known as the Daves Commission to prepare and forward to the Secretary of the Interior correct rolls of all of the members of the various Five Civilized Tribes. Your petitioners applied to this Commission for enrollment. The act of June 10th 1896, provided,

6.

as follows: "The rolls of citizenship of the various tribes as now existing are hereby confirmed", and the acts also provided that the parties whose claims for citizenship are disputed or denied or not acted upon might have their rights determined by the said Commission, but with this later provision your petitioners have no concern, because at that time the rights of your petitioners herein had been determined, and they were upon the rolls of citizenship of the Choctaw Nation and had theretofore. On the ____ day of _____, 1893, drawn their pro rata part of the leased district money going to the members of the Five Civilized Tribes, a record of this will be found in the possession of the said Dawes Commission.

As stated above your petitioners applied to the Dawes Commission, aforesaid, to be enrolled under that provision of the act of June 10th, 1896, alluded to above, providing, "That the rolls of citizenship of the several tribes as now existing are now confirmed." On the 7th day of June 1897, Congress of the United States passed an act defining what the said words "Rolls of Citizenship" meaning in the act of 1896 said provision is as follows "that the words "rolls of citizenship" as used in act of June 10th 1896, making provision for current and contingent expenses of the Indian Department for fulfilling treaty stipulations, that the various tribes for the fiscal year ending June 30th, 1897, should be construed to mean the last authenticated rolls of each tribe which have been approved by the Council of the Nation and all descendants as have been entered on such rolls and such additional names and their descendants as have been added either by the Council of such Nation; the duly authorized Court thereof or the Commission under the act of June 10th, 1896.

As stated above at the time the later Act was passed

8.

your petitioners were then upon the authenticated rolls of the Choctaw Nation, a record of which is in the possession of the so called Dawes Commission, and in virtue of the decision of the United States Indian Agent admitted them to citizenship and the approval of their judgment forwarded by the Secretary of the Interior, as well as under the above acts of Congress, they were entitled to be placed upon the rolls of citizenship of the Choctaw Nation. This was done and your petitioners were duly enrolled. The Choctaw Nation, however, were aggrieved by the action of the Dawes Commission and although they had no right or authority to do so, and in open violation of the law appealed from the decision of the Dawes Commission to the United States Court for the Central District of the Indian Territory, which said Court your petitioners allege had no jurisdiction of this cause whatever;

Subsequently on the ____ day of _____ the Court disregarding their want of jurisdiction entered judgment, however, approving of the action of the Dawes Commission and admitted again and anew your petitioners to all the rights, privileges and immunities of the citizens of the Choctaw Tribe of Indians, which action of said Court however added nothing of the rights which they were already possessed of as the rights of your petitioners were confirmed by the acts of Congress heretofore alluded to;

Subsequently the Congress of the United States under Section 31, 32 and 33 of the act approved on the 1st day of July 1902, created a Court known as the Choctaw-Chickasaw Citizenship Court. This Court proceeding under the authority granted it by this act of Congress annulled all of the judgments heretofore rendered by the United States Courts in the Indian Territory, including your petitioners' judgment, whereupon your petitioners after the cause had been transferred to the Choctaw-Chickasaw Citizenship Court filed a written motion to have their cause dismissed, still

9.

alleging and asserting that the Courts had no jurisdiction over them as their rights had been fixed by the judgment of the United States Indian Agent, which judgment had been confirmed by the said decision of the Secretary of the Interior, and their names had been duly and legally placed upon the authenticated rolls of citizenship of the Choctaw Nation, and further that Congress had confirmed that roll, which confirmation of the roll by the Congress of the United States above alluded to carried with it an absolute right for your petitioners enrollment and the absolute duty upon the part of the Dawes Commission to make the enrollment of them. This Choctaw-Chickasaw Citizenship Court absolutely ignored your petitioners' motion, whereupon your petitioners declined and refused to submit their cause to that Court, this motion will be found with the records of this cause now in the hands of the said Choctaw-Chickasaw Citizenship Court. Your petitioners allege and charge that the three members of this Court were violently prejudiced against your petitioners, and that one of them long before he had tried any of the cases coming before him had stated to various parties that he intended to deny rights of citizenship to as many as he possibly could, and when the motion was made to have your petitioners case dismissed in this Court one of the Judges before the public and from his judicial seat in the Court Room, in an angry and contentious voice declared that your petitioners should never leave that Court until a decision had been rendered denying them of the rights of citizenship, and your petitioners charge that they grossly and wantonly trampled upon the rights of your petitioners, yet in utter disregard of all this the said Choctaw-Chickasaw Citizenship Court falsified its judgment and entered a judgment to the effect that your petitioners had submitted the cause to them and further denying all rights of citizenship to your petitioners,

Subsequently your petitioners made application of the

10.

Commission to the Five Civilized Tribes to be enrolled as citizens of the Choctaw Nation in virtue of the aforesaid judgment of the Secretary of the Interior, and under the acts of Congress heretofore alluded to confirming the rolls of citizenship upon which the cause of your petitioners is to be found. The justness of your petitioners request was admitted by the said Dawes Commission, and they admit that the rights of your petitioners were fixed and vested by the said acts of Congress and the Secretary of the Interior and that your petitioners ought to be enrolled, but claimed that the Honorable Secretary of the Interior had issued an order, which was interpreted by the said Dawes Commission preventing them from enrolling your petitioners upon the ground that the adverse decision had been made to their claim by the aforesaid, Choctaw-Chickasaw Citizenship Court, whose judgment your petitioners then allege as they now allege was rendered without right or authority, and in open defiance of the law for the purpose of preventing your petitioners' enrollment by the said Dawes Commission, which allegation your petitioners beg to submit is true and correct.

Now your petitioners in conclusion allege that they are humble citizens of the Choctaw Nation and are looking to the Great Government of the United States, and especially to your Honorable Self to protect them in their rights and defend them against the wrongs and injustice;

Wherefore they respectfully pray your Excellency for an order directed to the Honorable Secretary of the Interior, requesting him to investigate your petitioners allegations herein made, and if found to be true place them upon the final rolls of the Choctaw Nation and that they be permitted to share in the share in the distribution of the tribal property, which is now being allotted

11.

in severalty to those whose names appear upon said final rolls.

Loula West nee Shockley

Subscribed and sworn to before me this the 16th day of Dec. A.D.
1904.

J. S. Mullen

Notary Public.

(SEAL)

DEPARTMENT OF THE INTERIOR
Received
DEC 21 1904.
Enc. No. 1 of No. 10353
Indian Territory Division.

DEPARTMENT OF THE INTERIOR,
FEB 10 1905.
Returned with No. 1484
inclosure 1 Ind. Ter. Div.

COPY.

Muskogee, Indian Territory, March 24, 1905.

The Honorable,

The Secretary of the Interior.

Sir:

The Commission has the honor to acknowledge receipt of Departmental letter of February 15, 1905 (I T D 10353-1904, 1484-1905), enclosing a communication under date of December 16, 1904, from Mrs. Loula West, of Ardmore, Indian Territory, forwarding a petition addressed to the President, praying him to cause an investigation to be made of the allegations contained in said petition, and if said allegations are found to be true, to cause her name to be placed upon the final roll of citizens of the Cheatew Nation.

The Department states that it appears from said petition that the Commission deems itself precluded from considering the case of Mrs. West by reason of an adverse decision of the Cheatew and Chickasaw citizenship court.

The Department also transmits a copy of an opinion of the Assistant Attorney-General for the Department of the Interior, of February 10, 1905, in which it is held that the Commission has jurisdiction to examine into the claimant's case, and that the

(2)

case should be adjudicated upon its merits, regardless of any decision of the Choctaw and Chickasaw citizenship court.

In conclusion, the Commission is directed to permit the applicant to submit such testimony in support of her claim as she may see fit.

The Commission has not, as yet, complied with the instructions contained in Departmental letter of February 15, 1906, and before so doing desires to submit a full statement of the case in question and call attention to certain Departmental opinions heretofore rendered in reference to persons who applied for citizenship in the Choctaw and Chickasaw Nations under the provisions of the Act of Congress approved June 10, 1896 (29 Stats., 521).

In reference to the case at bar, the Commission has the honor to report that under the provisions of the Act of Congress approved June 10, 1896 (29 Stats., 521), there was filed, on September 2, 1896, the original application of F. K. West, et al., for admission to citizenship in the Choctaw Nation. The parties petitioners to the original application were as follows:

F. K. West,
Lula West, wife of F. K. West,
Ray West, son of F. K. West,
Marie West, daughter,
Ephriam Shackley,
Ava Shackley, wife of Ephriam Shackley,
Mattie Shackley, daughter,
Leverett Shackley, son,

(3)

Charles L. Shookley,
Callie Shookley, wife of Charles L. Shookley,
Albert Shookley, son,
Mrs. Elmera Shookley,
Ethel Shookley, daughter,
Nora Shookley, Frank Shookley, Richard Scott,
Mary Ann Scott, wife of Richard Scott,
Emerson Scott, son,
Julia Scott, daughter,
and three other children, (names not given),
Mrs. Sefronia Langworth, daughter of Emerson Scott,
Husband and two children of Sefronia Langworth, (names
not given),
Mrs. Mattie L. Shookley,
Eddie Shookley, son of Mattie L. Shookley,
Albert P. Shookley.

The answer of the Choctaw Nation to this petition was filed on October 7, 1896, and on December 5, 1896, the Commission rendered its decision admitting F. K. West, Ava Shookley, Callie Shookley and Elmera Shookley as citizens of the Choctaw Nation by intermarriage, and Mattie L. Shookley, Charles L. Shookley, Ephriam Shookley, Eddie Shookley, Lula West, Albert Shookley, Roy West, Marie West, Mattie Shookley, Leverett Shookley, Albert Shookley, Jr., and Ethel, Nora and Frank Shookley, as citizens by blood of the Choctaw Nation, and rejecting all of the other parties applicant.

From this decision of the Commission to the Five Civilized Tribes an appeal was taken by the Choctaw Nation to the United States Court for the Central District of the Indian Territory, as to those persons admitted by the judgment of the Commission to the Five Civilized Tribes of December 5, 1896.

This cause was docketed as citizenship case No. 226 in the United States Court for the Central District of the Indian Territory, and on August 30, 1897, judgment was rendered by said court, affirming the decision of the Commission of December 3, 1896.

The judgment of the United States Court, of August 30, 1897, is in words as follows:

"On this the 30 day of August, A. D. 1897, the above cause came on to be heard upon appeal by defendant from the judgment of the Commission to the Five Civilized Tribes, whereupon both plaintiffs and defendant appeared by their respective counsel and submitted said cause both as to the law and the facts to the court, and the court having heard the evidence and argument of counsel doth find that Ava Shockley, Callie Shockley, Elzera Shockley and Mattie L. Shockley are members of the Choctaw Tribe of Indians and citizens of the Choctaw Nation by intermarriage, and that Charles L. Shockley, Ephriam R. Shockley, Eddie Shockley, Lula West, Albert Shockley, Roy West, Marie West, Mattie Shockley, Leverett Shockley, Albert P. Shockley, Ethel Shockley, Nora Shockley, and Albert R. Shockley are members of said tribe and citizens of said nation by blood, and should be enrolled as such, and that the other applicants named in said application being non-residents of the Indian Territory are not entitled to enrollment as members of said tribe or citizens of said nation. And it appearing to the court that the petitioner, Albert R. Shockley, is erroneously named in said application and the judgment of the said Commission as Frank Shockley, and that Albert P. Shockley has and pending this appeal, that said errors be corrected and he enrolled in his correct name. It is therefore ordered adjudged and decreed by the court that the judgment of the said Commission, after correcting the name of Albert R. Shockley, be and the same is hereby in all things approved and affirmed, that petitioners do recover of the Choctaw Nation all of their costs in this behalf expended and incurred, and that the clerk of this court do certify this judgment to the said Commission to the Five Tribes of Civilized Indians."

Under this judgment, Lula West, of Durwood, Indian Territory, on September 24, 1898, personally appeared before the Commis-

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sion for the purpose of having herself and her three minor children, Roy, eight years of age; Marie, seven years of age; and Corine, four years of age, enrolled as citizens by blood of the Choctaw Nation, and on the same date they were listed for enrollment as citizens of the Choctaw Nation by the Commission.

The judgment of the United States Court for the Central District of the Indian Territory, of August 30, 1897, admitting Lula West and Roy West to citizenship in the Choctaw Nation, was in full force and effect until December 17, 1902, when the Choctaw and Chickasaw citizenship court, created by the Act of Congress approved July 1, 1902 (32 Stats., 641), in the case of "The Choctaw and Chickasaw Nations or Tribes versus J. T. Riddle, et al.", rendered a decree holding

" . . . that the judgments rendered by the United States Courts for the Indian Territory under the Act of June 10, 1896, upon appeal from the Commission to the Five Civilized Tribes, in favor of the ten defendants named in the appeal, as well as to those who have come in and made themselves parties defendant, and all persons so situated, should be annulled and vacated, and it is therefore so ordered."

On March 3, 1903, the parties who had been deprived of the favorable judgment of the United States Court for the Central District of the Indian Territory admitting them to citizenship in the Choctaw Nation in the case of F. K. West, et al., had transferred to the Choctaw and Chickasaw citizenship court all of the records, papers and files in said case for a trial de novo, under

(6)

the title of F. K. West, et al., versus the Choctaw and Chickasaw Nations, which case was docketed as Choctaw and Chickasaw citizenship court case, South McAlester docket No. 42. A full trial of the cause was had by the Choctaw and Chickasaw citizenship court, and on March 21, 1904, a decree was rendered by said court in which it was ordered adjudged and decreed

" That the petition of the plaintiffs, F. K. West, Ava Shookley, Callie Shookley, Elzora Shookley or Adzora Shookley, Mattie L. Shookley (now Mattie L. Osborne), Charles L. Shookley, Ephraim E. Shookley, Eddie Shookley, Lula West, Albert Shookley, Roy West, Marie West, Mattie Shookley, Leverett Shookley, Ethel Shookley, Nora Shookley (now Nora Parker) and Albert R. Shookley, be denied, and that they be declared not citizens of the Choctaw Nation, and not entitled to enrollment as such citizens, and not entitled to any rights whatever flowing therefrom."

The opinion of the court in this case was delivered by Judge Walter L. Weaver, and a certified copy thereof was forwarded the Department by the Commission on April 22, 1904.

A certified copy of the decree of the citizenship court in this case was forwarded the Department on June 10, 1904.

The Commission, upon the certification to it of the decree of the Choctaw and Chickasaw citizenship court in the case of F. K. West, et al., considering such decree of said court to be final, dismissed any pending proceedings as to the rights of the persons claiming thereunder to citizenship in the Choctaw Nation, and directed the Choctaw and Chickasaw land offices to also dismiss any proceedings pending before said offices wherein said parties

might appear as contestants in allotment contest cases or applying for reservations of land to be made for them as undetermined applicants for citizenship in said nation.

The Department now directs, in its letter of February 18, 1906, that the Commission permit the petitioner, Loula West, to submit such testimony in support of her claim as she may see fit, in accordance with the opinion of the Assistant Attorney-General for the Department of the Interior, of February 10, 1906.

This opinion of the Assistant Attorney-General is seemingly based upon the fact that the petitioner, Loula West, prior to the submission of her application to the Commission to the Five Civilized Tribes in 1896, under the provisions of the Act of Congress approved June 10, 1896 (29 Stats., 321), applied to the Choctaw tribal authorities for admission to citizenship in that nation and was denied, but upon appeal to the United States Indian Agent, at Muskogee, Indian Territory, the matter being fully heard and the Agent finding her claim proven, recommended her admission as a citizen of the Choctaw Nation on July 15, 1889, and his action was approved by the Secretary of the Interior January 9, 1890.

The Assistant Attorney-General, in discussing the question of the jurisdiction of the Commission to now determine the right of Loula West to be finally enrolled as a citizen of the Choctaw Nation, uses the following language:

"The Act of June 10, 1896, confirmed the tribal rolls and under it the Commission had no jurisdiction or power to eliminate persons therefrom. In respect to such persons already recognized as citizens on the tribal roll, they had no power other than identification and entry upon the roll by them to be prepared. Such action was not a decision of admission of such applicant to citizenship, as that status already existed. In her case (as the facts are stated) it existed by virtue of her recognition and enrollment as a Choctaw by the Secretary of the Interior, January 9, 1890. That the Commission had no power to deny enrollment of such an applicant was decided by the Department, May 21, 1903, in the Choctaw case of Wiley Adams.

The United States Court, under the act of 1896, *supra*, had in citizenship cases no other jurisdiction than an appellate one, and from the very nature of such jurisdiction obtained no jurisdiction by an attempted appeal of a matter wherein the original tribunal had no jurisdiction. My opinion was so expressed in the recent Creek case of Mary C. Keifer (I. T. D. 5086-1902, 6236-1903). It follows that the attempted appeal by the Choctaw Nation in the case here under consideration, if the facts are as stated, vested no jurisdiction in the court to which the appeal was attempted to be taken, and, its judgment being essentially and necessarily a nullity, the citizenship court itself obtained no jurisdiction in the case by going through the form of annulling a judgment that for total want of original jurisdiction had never any validity or operation."

In an opinion rendered by Leo E. Bennett, United States Indian Agent, Union Agency, on July 15, 1889, on appeal from an adverse decision of the Choctaw National Council, it was held that the petitioner, Lula West, nee Shookley, whose age was given at that time as fourteen years, was entitled to citizenship in the Choctaw Nation, and the Indian Agent so recommended to the Department. On January 9, 1890, the Acting Secretary of the Interior, after a consideration of the recommendations of the Indian Agent in the matter of the claim of John Shookley and his family to

Choctaw citizenship, approved the same, and on January 29, 1890, the Agent was directed to advise the claimants and the Choctaw tribal authorities that his findings in the matter of the claim of John Sheekley and family to citizenship in the Choctaw Nation had been approved by the Department.

After the approval of the findings of the Indian Agent by the Secretary of the Interior, the petitioner, Lula West, was undoubtedly recognized by the Choctaw tribal authorities as a citizen by blood of the Choctaw Nation, and at the time of the distribution of the Leased District Payment to the citizens by blood of the Choctaw Nation, in 1893, the sum of \$206.00 was paid to her for herself and her only child living at that time, viz, Roy West. The names of Lula West and her minor son, Roy West, appear upon the 1893 Choctaw Leased District Payment Roll, Chickasaw District, page 63, opposite numbers 381 and 382.

All of these facts were presented to the Commission to the Five Civilized Tribes in 1896 and were considered in the rendition of the decision of December 5, 1896; by the United States Court for the Central District of the Indian territory on appeal, and by the Choctaw and Chickasaw citizenship court in the case of F. K. West, et al. versus the Choctaw and Chickasaw Nations. Copies of the opinion of the United States Indian Agent, of July 15, 1889, and of the approval of the Secretary of the Interior, of January 9, 1890, were attached to and submitted as a part of the

original petition filed with the Commission to the Five Civilized Tribes in 1896, were transferred to the records of the United States Court for the Central District of the Indian Territory when the case was appealed to that court, and were also certified to the Choctaw and Chickasaw citizenship court as a part of the files, records and proceedings in the case of F. K. West, et al. versus the Choctaw and Chickasaw Nations.

This statement of fact as to Loula West is also practically true as to the other parties in the case of John Sheekley and his family, who were admitted to citizenship in the Choctaw Nation by the Acting Secretary of the Interior on January 9, 1890, and who were parties applicant in the original petition of F. K. West, et al. for admission to citizenship in the Choctaw Nation, made to the Commission to the Five Civilized Tribes under the Act of Congress approved June 10, 1896 (29 Stats., 321).

As early as March 17, 1899, in an opinion rendered by the then Assistant Attorney-General for the Department of the Interior, in reference to the finality of the decisions of the Commission rendered under the Act of Congress approved June 10, 1896, it was held as follows:

"There can be no question as to the effect of this act. It made the Commission's determination as to the names to be enrolled a finality except where an appeal should be taken to the court, and through the court's decision was declared final. No tribunal or officer had any authority to revise or change the rolls prepared by the Commission."

(11)

The Act of Congress approved July 1, 1902 (32 Stats., 641), by which the Choctaw and Chickasaw citizenship court was created and its jurisdiction defined, provides as follows:

"The judgment of the Citizenship Court in any or all of the suits or proceedings so committed to its jurisdiction shall be final."

On May 11, 1904, the Department, with its letter of that date (I T D 3824-1904), transmitted for the information of the Commission an opinion of the Acting Attorney-General of the United States, of May 9, 1904, in which it was held as follows:

"Where an applicant was admitted by the Commission, and upon appeal such action was affirmed, and thereafter the decree of the United States Court was declared null and void in the test case, the Nations could not transfer the cause to the Citizenship Court, and if, as now claimed, the annulment ex proprio vigore gave efficacy to the appealed-from action of the Commission, then the other parties being powerless to act, simple inaction by the applicant would have perfected his rights to citizenship and the Indians, by prevailing in the test case, would have accomplished nothing. The Indians had no right to transfer the cause, and, of course under the conditions contended for, the applicant would not have done so.

I am of opinion that annulment of the United States Court judgment affirming a favorable decision of the Commission to the Five Civilized Tribes upon an application for citizenship so far deprived the applicant of a favorable judgment as to devolve upon the duty of causing his cause to be transferred to the citizenship court. I am further of opinion that annulment of the United States court judgment did not revive and put into force and effect the judgment of the Commission to the Five Civilized Tribes admitting such person to citizenship, and that enrollment by the Commission based upon such a theory would be a clear violation of the rights of the Indian Nations."

(12)

The Department, in its letter of June 10, 1904 (I T D 8180-1903, 1610-1904), in the Choctaw enrollment case of Andrew D. Pollock, in which the applicant was admitted to citizenship by the Commission under the Act of June 10, 1896 (29 Stats., 321), and where the attorneys for the Choctaw and Chickasaw Nations had requested postponement of final action until the rendition of a decision by the Choctaw and Chickasaw citizenship court in the case of Preston Early, et al., it was held as follows:

"It is not deemed proper to suspend action upon this case until the Citizenship Court has disposed of the Preston Early case, as there is no law authorizing the Department to 're-examine a decision of the Commission from which an appeal to the court was provided and which therefore became final in the absence of such an appeal'. See opinion of the Assistant Attorney-General of March 16, 1899."

On August 3, 1904 (I T D 8246, 6174-1904), the Department transmitted to the Commission an opinion of the Assistant Attorney-General for the Department of the Interior, of July 30, 1904, in reference to the Chickasaw enrollment case of Dr. Clay McCoy, in which reference is made to the authority of the Commission and of the United States Court in Indian Territory, under the Act of June 10, 1896 (29 Stats., 321), the jurisdiction of the Choctaw and Chickasaw citizenship court under the Act of Congress of July 1, 1902 (32 Stats., 641), and the opinion of the Assistant Attorney-General of the United States of May 1, 1904, and in concluding it was held as follows:

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"McCoy was clearly a person whose right was 'contested' within the meaning of section 27. Whether he was or was not made party to the representative suit contemplated by sections 31, 32 and 33, he had right to be made a party on application, and the judgment in the action operated to annul the favorable judgment that he before had recovered.

It is not my province to question the opinion of the Attorney General herein rendered, May 9, 1904, supra, that opinion is conclusive in the present case."

The Commission, acting under these various directions of the Department, and the plain constructions placed upon the Acts of June 10, 1896, and of July 1, 1902, has uniformly held that the decisions of the Commission in 1896 admitting persons to citizenship in the Choctaw and Chickasaw Nations, which were unappealed from, are conclusive as to the rights of such persons to be enrolled as citizens of the Choctaw and Chickasaw Nations, and that the decrees of the Choctaw and Chickasaw citizenship court are, irrespective of any facts that might have been considered in connection with the applications of such persons to be enrolled by the Commission as citizens of the Choctaw and Chickasaw Nations, final.

This broad grant of power now seemingly conferred by the opinion of the Assistant Attorney-General, of February 10, 1905, will practically re-open for adjudication a number of cases which have been adjudicated by the Commission under the Act of June 10, 1896, and by the Choctaw and Chickasaw citizenship court.

As we understand the position taken by the Assistant Attorney-General, and which, by Departmental letter of February 15,

(14)

1905, we are directed to follow, the Commission, acting under the provisions of the Act of June 10, 1896, could have acquired no jurisdiction over any claimant for citizenship in the Choctaw and Chickasaw Nations who had ever, prior to the date of the submission of his or her petition under said act, been, in any manner, recognized by the tribal authorities of these two nations by having his or her name placed upon any roll whatsoever of the citizens of these two tribes, and that the Commission is now clothed with power and jurisdiction, and directed, to adjudicate all such cases upon their merits, irrespective of any action by the Commission in 1896, by the United States Court on appeal, or by the Choctaw and Chickasaw citizenship court.

In conclusion, we desire to respectfully call the attention of the Department to the fact that if this direction is adhered to the Commission will be compelled to proceed to a trial de nove of numerous cases of applicants for citizenship in the Choctaw and Chickasaw Nations whose rights had, in our opinion, become res adjudicata, and where any proceedings wherein they might appear as parties in interest have been dismissed.

Apparently, we are directed by the opinion of February 10, 1905, to adjudicate the applications of a class of persons who were held by the opinion of the Acting Attorney-General of May 9, 1904, to be without the jurisdiction of the Commission and whose

(15)

applications for enrollment as citizens of the Oneota and Chickasaw Nations have long since been dismissed.

The letter of Mrs. West, of December 16, 1904, with the enclosures therewith transmitted, is herewith returned.

Respectfully,

(SIGNED) *Tamr Dixby.*

Chairman.

(SIGNED) *T. B. Needles*
Commissioner.

(SIGNED) *C. R. Brookings*
Commissioner.

Through the Commissioner
of Indian Affairs.

HA 22/00

7-3491

Washington D. C. Apl 21 -03

Daves Commission,

Muskogee, I. T.

Suspend all enrollment and allotment proceedings concerning the applicants in the Choctaw and Chickasaw cases of Lula West et al, Joe and Dillard Perry, William C. Thompson, et al, R. B. Coleman et al and Mary Elizabeth Martin, pending consideration of motion for review of departmental action in said cases. Letter follows.

E. A. Hitchcock, Secy.

Lula West et al.

South McAlester, Indian Territory, October 14, 1905.

Honorable Tams Bixby,

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Dear Sir:

As you are aware there are pending before the Assistant Attorney-General for the Interior Department certain Choctaw and Chickasaw Enrollment cases as follows:

Mary Elizabeth Martin,
William C. Thompson, et al.
Lula West, et al.
Richard B. Coleman, et al.
Joe and Dillard Perry, et al.

in which we have filed motions for a reconsideration of the decisions of the Assistant Attorney-General.

These motions were orally argued on October 19, and following and taken under advisement by the Assistant Attorney-General. Twenty days from that time was allowed up as attorneys for the Choctaw and Chickasaw Nations to file written synopsis of the oral arguments in each case, and the attorney for applicants was given ten days thereafter to file replies thereto.

In the Coleman case we first submitted a request to have the record returned to the Commission to the Five Civilized Tribes for a finding of facts; but that request was denied by written decision dated September 29, 1905. Thereafter the motion for a reconsideration was argued upon its merits and submitted along with the other cases and will be

conducted and disposed on the same way,

As you are further aware the first four cases mentioned raise questions of law upon the decision of which will depend the decision of various other citizenship cases of applicants similarly situated. In all of these cases, where we have been served with notice, we have requested that no further action be taken pending the decision of the test cases and such requests have been in every instance granted. We write this letter relative to the status of these cases in accordance with the request of Mr. Reall the Secretary of the Commission.

Very respectfully,

Wansfield, McMurray & Cornish.

COPY.

Muskogee, Indian Territory, January 9, 1906.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to acknowledge receipt of Departmental letter of December 13, 1905 (I. T. D. 6380, 16856-1905), enclosing an approved opinion of the Assistant Attorney General for the Department of the Interior of December 8, 1905, in the Choctaw enrollment case of Loula West, et al.

I desire to respectfully invite the attention of the Department to the comment of the Assistant Attorney General in his opinion referred to, upon the letter of the Commission to the Five Civilized Tribes of March 24, 1905, as follows:

"The plaint of the Commission seems to be, in substance, when analyzed, that consideration of the cases of persons claiming right of citizenship, resident in the Nation and borne on the tribal rolls, will involve so much labor, and be so inconvenient, that it prefers they should not be heard, regardless of whether they were ever properly within the jurisdiction of the Commission in 1896 and of the Citizenship Court, or not, so only these tribunals or the latter one assumed to render a decision depriving them of their clear right. It is needless to say that I am of the opinion that the considerations suggested by the Commission are not of a character entitled to executive or judicial consideration."

I recognize as conclusive, as to the propositions of law, and as binding upon this office in the disposition of cases coming

(2)

within the purview thereof, the opinion of the Assistant Attorney General of February 10, 1905 (I T D 10353-1904) and which is adhered to in his opinion of December 8, 1905 (I T D 3693-1905) in the Loula West case.

I desire, however, to respectfully invite the attention of the Department to the fact that the opinion of the Assistant Attorney General of February 10, 1905, was rendered upon the petition of Mrs. West addressed to the President, without any report upon the allegations being submitted by the Commission to the Five Civilized Tribes and without knowledge by said Commission that the Department or the Assistant Attorney General had the same under consideration.

The Commission to the Five Civilized Tribes, prior to the receipt of Departmental letter of February 15, 1905 (I T D 10353-1904, 1484-1905), had advised persons who had been denied citizenship in the Choctaw and Chickasaw Nations by decrees of the Choctaw and Chickasaw Citizenship Court that there was no relief or redress for them. This stand was taken by the Commission after a full consideration of the law and was thought to be in accordance with the construction placed upon the law by this Department and the Department of Justice.

It was not the intention of the Commission in its letter of March 24, 1905, to criticize, nor do I find anything therein

(3)

which can be construed as criticism of, the opinion rendered by the Assistant Attorney General February 10, 1905, in the Loula West case.

The opinion of February 10, 1905, was in direct contradiction to information being furnished by the Commission to persons denied by decrees of the Choctaw and Chickasaw Citizenship Court, and before taking action under said opinion it was merely desired to express the opinion of the Commission as to the construction that had been placed by it upon the law and upon previous Departmental rulings in reference to the finality of decisions rendered under the Acts of Congress approved June 10, 1896 and July 1, 1902.

The Commission to the Five Civilized Tribes had been the subject of general and Congressional censure for seeming delays in the prosecution of the work assigned to it by law, and in the letter of the Commission of March 24, 1905, in addition to stating its opinion of the law relative to cases of this character, it was the desire of the Commission to present to the Department the further fact that if it was called upon to readjudicate the applications of persons who had been denied by decrees of the Choctaw and Chickasaw Citizenship Court it would be necessary to proceed to a trial de novo of practically all of the cases which had been adjudicated by that Court and that such proceedings would of necessity consume much time.

I do not hesitate to express the opinion that it will require at least a year from the present date to make disposition of the applications of persons who were denied by decrees of the Choctaw and Chickasaw Citizenship Court and who are now demanding a hearing under the opinion of the Assistant Attorney General in the Loula West case.

As exemplifying the attitude of Congress in reference to the completion of the work of enrollment in the Five Civilized Tribes, I desire to respectfully invite attention to a provision undoubtedly prepared by a leading member of the House Committee on Indian Affairs and inserted at the end of Section 2 of H. R. Bill No. 5976, entitled "An Act To provide for the final disposition of the affairs of the Five Civilized Tribes, and for other purposes," as follows:

"That the rolls of tribes affected by this act shall be fully completed on or before the fourth day of June, 1906."

It will be impracticable to make effective this provision of the act referred to, should the same become law, but it clearly indicates the desire and intent of Congress to complete the enrollment work in the Five Civilized Tribes without delay.

It was not with any idea of complaint as to the amount of work delegated to the Commission to the Five Civilized Tribes that its letter of March 24, 1905, was written, but with the earnest purpose of presenting clearly to the Department the fact

(5)

that under this construction of the law the work performed by the Citizenship Court would have to be gone over in large part again, and the enrollment work in the Choctaw and Chickasaw Nations would be indefinitely prolonged.

There are approximately two thousand five hundred persons who were denied citizenship in the Choctaw and Chickasaw Nations by decrees of the Choctaw and Chickasaw Citizenship Court and probably every one of these persons will now assert a right to a hearing under the opinion of the Department in the Loula West case. That these hearings will necessitate a considerable expenditure of government money and an indefinite extension of the time within which the enrollment work in these two nations can be completed certainly can not be questioned.

The Assistant Attorney General, in his opinion of December 8, 1905, especially criticizes the language used by the Commission to the Five Civilized Tribes, in its letter of March 24, 1905, as follows:

"This broad grant of power now seemingly conferred by the opinion of the Assistant Attorney General, of February 10, 1905, will practically re-open for adjudication a number of cases which have been adjudicated by the Commission under the Act of June 10, 1896, and by the Choctaw and Chickasaw Citizenship Court."

and states that it is not his province, nor does he assume to make a "broad" nor yet any "grant of power" to the Commission.

I have to report that a procedure has been adopted by me

(6)

for the hearing of persons claiming under the opinion of the Assistant Attorney General in the Loula West case, and it will be the desire and purpose of this office to expedite, as far as practicable, the hearing and disposition of such cases.

I can not but believe that the doctrine enunciated by the Assistant Attorney General in his opinion in the Loula West case, has conferred upon the Department jurisdiction in the cases of these persons which was not contemplated by the act of July 1, 1902 (32 Stats., 641), in the creation of the Choctaw and Chickasaw Citizenship Court.

It is not, however, my province to question these opinions and they will be considered conclusive as to the procedure to be had thereunder before this office, but I would certainly be derelict in the observance of proper respect for the views of my former coadjutors, concurred in at the time by myself, did I fail to express the opinion that the criticism of the Assistant Attorney General of the letter of the Commission to the Five Civilized Tribes of March 24, 1905, was ill considered, unjustifiable and pusillanimous.

Respectfully,

Commissioner.

DIRECT.

SPECIAL.

J.P.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

THE

January 15, 1907.

D.C. 2920-1907.
I.T.D. 25868-1906.
818-1907.

LRS

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

Referring to departmental letters of January 9 and 14, 1907, in the matter of the application for the enrolment of Mattie Shockley et al., as citizens by blood of the Choctaw Nation, you are advised that by direction of the President the case will be submitted to the Attorney-General for his opinion. You will suspend action relative to these claimants until further advised.

Respectfully,

Thos Ryan

First Assistant Secretary.

D. C. 5193-1907.

W.H.H.

L. R. H.

DEPARTMENT OF THE INTERIOR,

WASHINGTON.

January 21, 1907.

I. T. D. 212-1907.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

There are inclosed herewith, for your information, copies of letters addressed to the Attorney-General, dated January 19, 1907, transmitting the records in the cases of William C. Thompson, et al, as Chectaw citizens, Ethel Pierson, a Chectaw freedman, Richard B. Coleman, et al., Chectaw citizens, and Louis West, a Chectaw citizen by blood.

Respectfully,

Jesse H. Wilson,
Assistant Secretary.

Through the
Commissioner of Indian Affairs,
4 enclosures.

FHE.

I. T. D. 818-1907.

January 19, 1907.

The Attorney-General.

Sir:

I have the honor to transmit herewith, in accordance with the direction of the President, in a communication to me of the 12th instant, the papers in the matter of the application for the enrolment of Loula West as a citizen by blood of the Choctaw Nation, Indian Territory, upon the roll being prepared by the Commission to the Five Civilized Tribes in accordance with the act of June 28, 1898 (30 Stat., 495), and subsequent legislation, including the opinions of the Assistant Attorney-General for this Department, of February 10, 1905, and December 8, 1905, both approved by me, in view of which the Department, on January 9, 1907, authorized, in letter to the Commissioner to the Five Civilized Tribes, the enrollment of Loula West and certain other applicants in the case of Mattie Shockley, et al.

On January 15, 1907, however, in view of the order of the President, the Commissioner was directed to suspend action relative to such applicants.

A communication addressed to the members of the Select Committee on Indian Affairs, received with the President's letter, is also inclosed. See letter of even date submitting the cases of William C. Thompson, et al., Richard B. Coleman, et al., and Ethel Pierson.

-2-

There is also transmitted a copy of the Eleventh Annual Report of the Commission to the Five Civilized Tribes, in which, commencing on page 57, may be found copies of the laws passed up to the date of the report, affecting the work of the Commission.

Should you desire copies of any of the opinions of the Assistant Attorney-General or letters of the Department referred to in the opinions inclosed, I will be pleased to furnish them.

A schedule of the papers inclosed, except said annual report of the Commission to the Five Civilized Tribes is attached. It is respectfully requested that the papers mentioned in the schedule be returned to the Department in due time.

Respectfully,

E. A. Hitchcock,
Secretary.

32 inclosures.

TR.

Schedule.

- A. The letter from the President, of Jan. 12, 1907, with inclosures..... 818-1907.
- B. Letter from Loula West to the President, of December 16, 1904..... 10323-1904.
- C. Opinion of the Assistant Attorney-General of February 10, 1905..... 1484-1905.
- D. Indian Office letter of May 27, 1905..... 6380-1905.
- E. Letter from the attorneys for the Cheetaw and Chickasaw Nations, of April 8, 1905..... 7623-1905.
- F. Letter from the attorneys for the Cheetaw and Chickasaw nations of April 8, 1905..... 7679-1905.
- G. Opinion of Assistant Attorney-General of December 8, 1905..... 16856-1905.
- H. Letter from Lula West of December 8, 1906..... 15159-1906.
- I. Indian Office letter of December 22, 1906..... 25864-1906.
- K. Indian Office letter of January 15, 1907 with inclosures 1016-1907.
- L. Indian Office letter of January 15, 1907 with inclosures 1034-1907.

D.C. 10916-1907.

JP.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

LLB

I.T.D. 4564-1907.

February 23, 1907.

L. R. S.

Direct.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir :

Confirming telegram of this date, as follows--

"You are directed to inspect the partial rolls of citizens of the Choctaw and Chickasaw nations to determine what persons have been enrolled thereon contrary to the views expressed by the Attorney-General in opinion of February 19, copy sent you this day, and whose names should be stricken therefrom. You will furnish the Department a list of such names with roll numbers, and give such information that it may readily determine whether such names should be stricken from the rolls. This information should reach the Department before March first. Take like action relative to the rolls of the Cherokee and Creek nations.

It was held in such opinion, among other things, that the decisions of the Commission under act of 1896, not appealed from, were final, and that the decisions of the Choctaw and Chickasaw Citizenship Court were final, whether claimant's name was on tribal rolls or not.

Decisions of the Department, based upon opinions of the Assistant Attorney-General, in favor of claimants in the cases of Loula West et al., William C. Thompson et al., and Richard B. Coleman et al. are rescinded in letter to you of this day. The decision of the Department in the Ethel Pierson case, minor child of a Choctaw freedman, is sustained in the opinion of the Attorney-General.

E. A. Hitchcock,
Secretary.

a copy of the opinion of the Attorney-General referred to therein is inclosed, and you are directed to strike the names of the claimants in the Choctaw enrollment cases of Loula West et al., if enrolled; William C. Thompson et al., and Richard B. Coleman et al. from the partial roll of citizens of the Choctaw Nation, as of this date, referring to this letter as your authority. Advise the Department of your action, giving roll numbers, etc., in order that the parts of the rolls in the possession of the Department and the Indian Office may be made to show the cancellation.

In accordance with said opinion, the enrollment of Cyrus H. Kingsbury and Lucy E. Littlepage will be allowed to stand. The patent in favor of Cyrus H. Kingsbury received with your letter of March 10, 1896, has been approved and is inclosed.

As soon as practicable you will advise the Department relative to the status of any land, whether patented, etc., that may have been selected by any person hereby stricken from the rolls or to be stricken from such rolls, and make such recommendations as to the course that should be pursued concerning such tracts as you deem proper.

A carbon copy hereof has been sent to the Indian Office.

Respectfully,

E. A. Hitchcock,
Secretary.

2 inclosures.

D.O.M.
G.W.W.
File 5-51.
D
6476

J.W.H.
J.W.H.
W.C.P.
J.W.L.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

March 1, 1909

Seal-- 17077
Office of Ind. Affairs
Rec. March 3-1909.

The Commissioner
to the Five Civilized Tribes.

Sir:

January 25, 1909, you were advised that the names of certain persons were inadvertently included in Departmental letter of January 19, 1909 (File 5-51); that such mistake was due to the fact that it was supposed they were enrolled upon schedules approved by the Department, when in fact, the only schedules upon which their names appear were disapproved, and that no action should be taken under the circumstances looking to the erasure of interlineations or notations, if any, from the disapproved schedules, in connection with their names.

The names of the persons referred to in said letter of January 25, 1909, are as follows:

Choctaws by Blood.

Roll No.

16103

Elizabeth Allen.

16112
16110
16106
16111
16105
16107
16108
16109
921
922
16104

George A. Bumgarner.
Leontitia Crutchfield.
Everett Crutchfield.
George W. Crutchfield.
Ida Crutchfield.
Ira Crutchfield.
Louvinia Crutchfield.
William Crutchfield.
Josephine LaFlere Long.
Eake Laflere Long.
David Ritter.

It now appears from the records of the Secretary's Office that there was a schedule approved May 21, 1904, by the Secretary of the Interior, and that the approval then given was cancelled by said Secretary at a later date, to-wit, June 23, 1904.

The name of Elizabeth Allen appears upon the schedule which was approved May 21, 1904, opposite the number 15561. Ida Crutchfield's name appears opposite No. 15553, while the other members of the Crutchfield family were given the numbers immediately following that assigned to her.

You are requested to cause a report to be prepared showing whether the records of your Office also show that an earlier schedule containing the names of said persons was approved May 21, 1904; also whether such approval was cancelled June 23, 1904. Please report also the reason for the attempted cancellation, and whether prior notice was given thereof.

It appears further that, in connection with the names of Elizabeth Allen and the Crutchfield family on the roll approved May 21, 1904, the names of Ardella Hickman, Ida M. Southard and Grover Randall are also to be found.

In connection with said names, it is desired that you will report what action, in your opinion, should be taken concerning the first of said persons; also whether the said Ida M. Southard and Grover Rnadall, respectively, are identical with the Ida M. Southard whose name appears opposite No. 15880 in the printed rolls of citizens by blood of the Choctaw Nation, and the Grover Randall whose name appears on page 8 of Departmental letter of January 19, 1909 (File 5-51), opposite No. 15928.

As appears from the above list, there were other persons besides the said Allen and Crutchfield whose names were enrolled on schedules which were finally disapproved by the Department; for example, George A. Bumgarner, Josephine Laflore Long and Jake Laflore Long.

Please report whether the names of these persons appear upon any prior approved schedule; also why it was that the Commissioner to the Five Civilized Tribes enrolled them upon the schedule which was disapproved by the Department, showing whether the Commissioner enrolled them thereon, of his own motion, or under decision or instructions from the Department.

By comparison of the roll approved May 21, 1904, with the printed rolls of Choctaws by blood, the Department finds that the numbers appearing thereon opposite the names of said persons were subsequently assigned to other citizens of the Choctaw Nation; thereby the series of roll numbers was kept perfect, but a material portion of the rolls was evidently sacrificed upon the supposition that it had become

worthless. Inquiry arises in this connection as to whether there were other approved schedules which were subsequently disapproved and thrown aside. Accordingly, it is desired that you also cause a report to be prepared covering this feature of the matter, showing all persons embraced in similar cases, with recommendation as to what action should be taken as to them. This will necessitate a statement as to why their names were stricken or cancelled from the rolls, and whether such action was taken without prior notice.

There is still another matter concerning which the Department desires report to be made. It is observed that the words "No person enrolled at this number" are to be found not infrequently opposite consecutive numbers on the pages of the printed rolls, and you are requested to advise the Department whether such words were substituted for the names of individuals appearing on disapproved schedules, and if such is the case, whether such disapproved schedules were approved at any time by the Department; also whether favorable decisions were ever rendered by the Department as to such persons prior to their enrollment upon such disapproved schedules.

For the sake of expedition, a partial report should be rendered at once concerning the said Elizabeth Allen and the various members of the Crutchfield family named above. The other matters referred to herein can be disposed of by subsequent reports.

Very respectfully,

Jesse E. Wilson.

Assistant Secretary.

Through the
Indian Office.

No. 294.

Department,
Alton.
Washington, D.C.
March 1, 1909.

Calls attention to Departmental
letter of Jan. 25, 1909, in
regard to names of certain
persons that were inadvertently
included in Department letter
of Jan. 19, 1909, La. Hutchfield
et al.

Land

8828--08
17077-09
J E R

E B H
E B H

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS.

WASHINGTON, D.C., -----March 6 -09

Respectfully referred to the Commission
to the Five Civilized Tribes, for
appropriate action.

John Francis, Jr.

Acting Chief Land Division.

1 Letter
dated Feb. 1, 09.

D 301-1909

Muskogee, Oklahoma, April 14, 1909.

Subject:

Reporting on Departmental
letter of March 2, 1909,
as to case of Mattie Shockley,
et al. analogous to case
of Minerva F. Swadley, et al.

The Honorable,

The Secretary of the Interior.

Sir:

Receipt is hereby acknowledged of Departmental letter of
March 2, 1909 (File 5-51) asking for reports on certain Choctaw
cases analogous to the case of Minerva F. Swadley, et al. and
directing that the report be made in the form of answers to
questions one to five inclusive in Departmental communication
of February 25, 1909, relative to Mattie L. Armstrong, and
that instead of question six the report should state whether
any attempt was made, directly or indirectly, to give notice
of the rescinding of Departmental decision favorable to the
applicants.

Reference is also made to Departmental letter of March 1,
1909 (File 5-51) asking for reports on the cases of all persons
whose names appear on schedules of Choctaws and Chickasaws
which were disapproved by the Department.

Secretary 2

I have the honor to state that the case of Mattie Shockley, et al. (Lula West case) is one of the cases included in both Departmental letters above referred to, and to report therein as follows:

It appears from the records of this office that on September 9, 1896, in the case entitled F. K. West, et al. versus the Choctaw Nation, 1896 Choctaw Citizenship Case Number 956, original application was made to the Commission to the Five Civilized Tribes under the provisions of the Act of Congress approved June 10, 1896 (29 Stat., 321) for admission of the applicants, Mattie Shockley (as Mattie L. Shockley), Felix K. West (as F. K. West), Ava Shockley, Callie Shockley and Elzora Shockley as citizens by intermarriage of the Choctaw Nation, and John E. Shockley (as Eddie Shockley), Lula West, Roy West, Ephriam M. Shockley, Mattie Shockley, Leverett Shockley, Charles L. Shockley, Albert Shockley, Lenora Parker (as Vera Parker), Albert R. Shockley (as Albert Shockley) and Ethel Shockley as citizens by blood of the Choctaw Nation; that on December 5, 1896, the Commission admitted the above applicants as citizens of the Choctaw Nation.

From this decision an appeal was taken by the Choctaw Nation to the United States Court for the Central District of Indian Territory, which court, in case Number 226 on the Citizenship Docket, affirmed the decision of the Commission admit-

Secretary 3

ving these applicants to citizenship in the Choctaw Nation.

On December 17, 1902, the Choctaw and Chickasaw Citizenship Court, created under the provisions of the Act of Congress approved July 1, 1902 (32 Stat., 641) "set aside, annulled, vacated and held for naught" the aforesaid judgment of the United States Court for the Central District of the Indian Territory. Thereafter the record in this case was certified to the Choctaw and Chickasaw Citizenship Court for a trial de novo, and this court, on March 21, 1904, in the case of F. K. West, et al. versus the Choctaw and Chickasaw Nations, Number 42 on the South McAlester Docket of said court, ordered, adjudged and decreed that all these applicants be denied and declared not citizens of the Choctaw Nation, and not entitled to enrollment as such citizens, or to any rights whatever flowing therefrom.

May 27, 1904, orders were entered of record by the Commission to the Five Civilized Tribes, dismissing the applications for the enrollment of Corine West, Elva May Shockley, Harman Shockley, Mamie Shockley, Trevor M. Parker, Lodie P. Parker and William Leslie Parker as citizens by blood of the Choctaw Nation for the reason that their parents had been denied enrollment by a decree of the Choctaw and Chickasaw Citizenship Court.

December 18, 1904, Lala West, one of the applicants in this case, forwarded a petition to the President, praying him

Secretary 4

to cause an investigation to be made of the allegations contained in said petition, and if the same were found to be true, to cause her name to be placed upon the final roll of citizens by blood of the Choctaw Nation.

This petition was on February 15, 1905 (I T D 10383-1904) forwarded by the Department to the Commission to the Five Civilized Tribes with instructions to permit the petitioner to submit such testimony in support of her claim as she might see fit and enclosed a copy of an opinion of the Assistant Attorney General for the Department of the Interior of February 10, 1905, wherein it was held that said Commission had jurisdiction to examine into the claimants' cause, and should adjudicate it upon its merits, regardless of the judgment of the Choctaw and Chickasaw Citizenship Court.

A motion for review was filed with the Department by the Attorneys for the Choctaw and Chickasaw Nations, and on December 13, 1905 (I T D 3380-1905) the Department forwarded a copy of an opinion of the Assistant Attorney General for the Department of the Interior of December 8, 1905 (I T D 3693-1905), wherein he adhered to his former opinion rendered February 10, 1905, and held that Lula West having on January 9, 1890, been admitted to citizenship in the Choctaw Nation by the Secretary of the Interior, the Commission to the Five Civilized Tribes had no jurisdiction under the Act of Congress of

Secretary 5

June 10, 1896, to pass upon her rights, and the United States Court for the Central District of Indian Territory, and the Choctaw and Chickasaw Citizenship Court on appeal were also without jurisdiction. Copies of this opinion were forwarded the applicant, Lula West, and her attorney of record on December 23, 1905.

Under the regulations adopted by the Commissioner to the Five Civilized Tribes January 2, 1906, there was filed on January 22, 1906, by Thomas Norman, of Ardmore, Indian Territory attorney for the petitioners, a petition verified by Lula West, and submitted on behalf of Lula West, P. K. West, Ray West, Marie West, Corine West, Elzora Shookley, Ethel Jones, nee Shookley, Charles L. Shookley, Callie Shookley, Albert Shookley, Herman Shookley, Mable Shookley, Herbert E. Shookley, E. E. Shookley, Ava Shookley, Mattie Shookley, Leverett Shookley, Elva May Shookley, Plasse Shookley, Pauline Daniel, nee Shookley, Albert Shookley, Mattie L. Osborn, nee Shookley, Eddie Shookley, Lenora Parker, nee Shookley, Treva Myrtle Parker, Lodie Franklin Parker, William Leslie Parker, and Albert E. Shookley, praying that they be enrolled as citizens of the Choctaw Nation.

All parties in interest were notified and a hearing was had in this case March 8, 1906.

Secretary 6

It appears from the record in this case that on July 15, 1889, on appeal from the adverse action of the Choctaw National Council, the United States Indian Agent, Leo E. Bennett, rendered a decision admitting John Shockley, now deceased, Mattie L. Shockley, William Shockley, now deceased, Elzora Shockley, Charles L. Shockley, Ephriam Shockley, Lula Shockley and Robert Shockley to Choctaw citizenship, said decision being on January 9, 1890, approved by the Secretary of the Interior.

The applicants contended that no such person as Robert Shockley existed; that this was an error and should have been Albert Shockley, now deceased, a son of John Shockley, the principal petitioner before the Indian Agent.

Upon an examination of the tribal rolls of the Choctaw Nation in the possession of this office, the names of John E. Shockley, Lula West, Roy West, Ephriam E. Shockley, Mattie Shockley, Charles L. Shockley and Albert Shockley are identified upon the 1893 Leased District Payment Roll of the Choctaw Nation, Chickasaw District, Numbers 501, 521, 522, 498, 499, 497 and 500 respectively.

March 19, 1906 1906, the Commissioner to the Five Civilized Tribes rendered an opinion which rescinded the orders of the Commission to the Five Civilized Tribes of May 27, 1904, dismissing the applications for the enrollment of Corine West, Elva May Shockley, Harman Shockley, Maudie Shockley, Trevor E.

Secretary 7

Parker, Ludie V. Parker and William Leslie Parker, and, in accordance with the opinions of the Assistant Attorney General for the Department of the Interior of February 10, 1905 (I T D 10353-1904) and December 8, 1905 (I T D 3643-1905) in the case of Lula West (Loula West), held that John E. Shockley, Lula West, Roy West, Marie West, Corine West, Ephriam E. Shockley, Mattie Shockley, Leverett Shockley, Elva May Shockley, Charles L. Shockley, Albert Shockley, Herman Shockley, Mamie Shockley, Albert R. Shockley and Albert P. Shockley should be enrolled as citizens by blood of the Choctaw Nation, and that Mattie Osborn, Ava Shockley, Callie Shockley and Pauline Shockley should be enrolled as citizens by intermarriage of said Nation, under the Acts of Congress approved June 28, 1898 (30 Stat., 495) and July 1, 1902 (32 Stat., 641).

The Commissioner further held that the applications made for the enrollment of Felix E. West and Elzora Shockley as citizens by intermarriage of the Choctaw Nation and the applications for the enrollment of Lenora Parker, Trever M. Parker, Ludie V. Parker, William Leslie Parker and Ethel Shockley as citizens by blood of said nation should be denied under the provisions of the Act of Congress approved June 28, 1898.

The applicants, Plasse Shockley and Herbert E. Shockley, not being the children of recognized and enrolled citizens by

Secretary 8

blood of the Choctaw Nation whose enrollment had been approved by the Secretary of the Interior prior to March 3, 1905, the applications for their enrollment as citizens by blood of the Choctaw Nation were dismissed without prejudice.

May 4, 1906, notice of this decision was forwarded the parties in interest by registered mail, and on the same date the original record in this case, together with the decision of March 19, 1906, was transmitted to the Department.

May 9, 1906, Thomas Norman forwarded a statement of exceptions to the decision in this case, in so far as it pertained to certain persons who were denied therein, and requested that the same be transmitted to the Secretary of the Interior, which was done May 14, 1906.

December 23, 1906 (Land 40199, 42796-1906) the Indian Office recommended that the decision of the Commissioner of March 19, 1906, be affirmed, and that, in the event the Department did affirm this decision, the Commissioner to the Five Civilized Tribes be directed to enroll the applicants, Plasse and Herbert E. Shockley, under Section two of the Act of Congress approved April 26, 1906 (34 Stat., 137). January 9, 1907 (I T D 25868-1906) the Secretary of the Interior affirmed the decision of the Commissioner to the Five Civilized Tribes of March 19, 1906, and directed that the office proceed with the adjudication of the claims of Plasse Shockley and

Secretary 9

Herbert E. Shockley under legislation enacted subsequent to the decision of March 19, 1906.

January 14, 1907 (I T D 25864-1906) this office was directed by the Department not to promulgate the decision of January 9, 1907 in this case and to return it at once direct to the Department as the parties in the case were not to be enrolled unless further advised by the Secretary of the Interior.

January 15, 1907 (I T D 818-1907) this office was advised, with reference to Departmental letters of January 9 and January 14, 1907, in the matter of the application for the enrollment of Mattie Shockley, et al. as citizens by blood of the Choctaw Nation, that, by direction of the President, the case would be submitted to the Attorney-General for his opinion and that no further action should be taken relative to these claimants until this office was further advised.

January 17, 1907, this office acknowledged receipt of Departmental letters of January 14, 1907 and January 15, 1907 and in conformity with the request of the Department, the communication of January 9, 1907, affirming the decision of the Commissioner to the Five Civilized tribes of March 19, 1906, in the Choctaw enrollment case of Mattie Shockley et al., together with the report of the Acting Commissioner of Indian

Secretary 10

Affairs of December 22, 1906, was returned direct to the Department.

February 23, 1907 (I T D 4564-1907) this office was directed by telegram from the Department, which was subsequently confirmed by letter of the same date, to inspect the partial rolls of citizens of the Choctaw and Chickasaw Nations to determine what persons were enrolled thereon contrary to the views expressed by the Attorney-General in his opinion of February 19, 1907. The office was further advised in said telegram that decisions of the Department, based upon opinions of the Assistant Attorney-General in favor of claimants in certain cases, among which was Loula West, et al., were rescinded.

February 12, 1907, there were transmitted for the consideration of the Department, schedules of citizens of the Choctaw Nation, as follows:

Citizens by blood . . . Nos. 16140 to 16174 inclusive
Citizens by marriage . . Nos. 1646 to 1649 inclusive
Minor citizens by blood.. Nos. 919 to 920 inclusive

These schedules were composed of the persons who had been admitted by the Commissioner to the Five Civilized Tribes in his decision of March 19, 1906, in the case of Mattie Shockley et al. and Herbert E. Shockley and Placese Shockley, whose names were scheduled without decisions in accordance with the provisions of the Act of Congress approved April 26, 1906.

Secretary 11

Inasmuch as the time within which persons could be enrolled and their enrollment approved by the Secretary of the Interior under the provisions of the Act of Congress approved April 26, 1905, was becoming very short, the schedules above described were prepared at this office without waiting for the opinion of the Attorney-General and were forwarded to the Department, in order that, if the opinion of the Attorney General were favorable to their contention, the rights of these applicants might be protected by the Department without delay.

February 27, 1907, referring to Departmental letter of February 23, 1907, authorizing this office to cancel the enrollment of the persons included in the case of Loula West, et al. this office ~~transmitted~~ reported that the schedules above referred to had been transmitted to the Department on February 12, 1907, and recommended that the decision of March 19, 1906, be not approved and that the schedules containing the names of the persons included in this decision be disapproved by the Department.

February 26, 1907 (I T D 1402-1907) the Department, in view of the opinion of the Attorney-General of February 19, 1907, in the case of Loula West et al., ~~reconsidered~~ its decision of January 9, 1907, in favor of the claimants in the case of Mattie Shackley et al. and reversed the decision of this of-

Secretary 12

fice of March 19, 1906, favorable to the applicants.

March 1, 1907 (I T D 5480, 5484-1907) the Department advised this office that the schedules containing the names of the parties applicant in the case of Mattie Sheekley et al. (Loula West case) had been disapproved. A report of the Indian Office of February 28, 1907 (Land 16776-1907) was also transmitted.

March 16, 1907, the parties in interest in this case were advised of the action of the Department reversing the decision of the Commissioner of March 19, 1906 as to the persons admitted therein and affirming it as to the persons denied by said decision.

Inasmuch as the persons included in this case were never upon the approved rolls no certificates of allotment were issued to them. Contests were filed by them, but were dismissed after the action of the Department in denying their applications.

I have further to report that it does not appear from the records of this office that any attempt was made, directly or indirectly, to give the above named applicants notice of the proceedings looking to the rescinding of the decision of the Secretary of the Interior in their case.

Inasmuch as the record in this case is very full and complete, and it is believed that the applicants could not

Secretary 15

add anything thereto, this office has not forwarded to them notices as referred to in Departmental letter of March 16, 1909, relative to applications for restoration to citizenship status in the Five Civilized Tribes, and will withhold such action unless it is the wish of the Department that the same should be furnished these applicants.

However, if it is desired that the notices be forwarded, or if it is the wish of the Department that the parties applicant in cases of this character should be notified to have their attorneys submit written argument as to their contention that their case falls within the principles of the opinion of the Supreme Court in the Goldsby and Allison cases, this office will proceed to notify the applicants to this effect immediately upon their receipt of advice from the Department, and will make supplemental report after their replies have been received.

Respectfully,

Commissioner.

Through the Commissioner
of Indian Affairs.

AS

Choctaw 6033

Albert R. Shockley

Decision of Commissioners enrolling
applicants reversed by Sec of INT

4-14-09 Report To Dept

Trans from 7-5193 May 20, 1906

Duplicate record bound See Pet # C-16

6033

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of
Mattie Shockley, et al., as citizens of the Choctaw Nation, consol-
idating the applications of

Mattie Shockley, et al	7-5238
Lula West, et al.	7-5191
Ephriam E. Shockley, et al	7-5109
Charles L. Shockley, et al.	7-5188
Lenora Parker, et al.	7-5190
Albert R. Shockley,	7-5193
Elsora Shockley, et al.	7-5189
Pauline Shockley, et al.	7-D-51

DECISION.

It appears from the record herein that on October 4, 1898, application was made to the Commissioner to the Five Civilized Tribes for the enrollment of Mattie Shockley as a citizen by intermarriage of the Choctaw Nation, and for the enrollment of her son, John E. Shockley, as a citizen by blood of the Choctaw Nation; on September 24, 1898, application was made by Felix K. West for the enrollment of himself as a citizen by intermarriage of the Choctaw Nation, and for the enrollment of his wife, Lula West, and his three minor children, Roy, Marie, and Corine West, as citizens by blood of the Choctaw Nation; on September 22, 1898, application was made by Ephriam E. Shockley for the enrollment of himself and two minor children, Mattie and Leverett Shockley, as citizens by blood of the Choctaw Nation, and for the enrollment of his wife, Ava Shockley, as a citizen by intermarriage of the Choctaw Nation; on September 24, 1898, application was made by Charles L. Shockley for the enrollment of himself and two minor children, Albert and Hurman Shockley, as citizens by blood of the Choctaw Nation, and for the enrollment of his wife Callie Shockley, as a citizen by intermarriage of the Choctaw Nation; on September 24, 1898, application was made by Lenora Parker for the enrollment of herself and minor child, Trevor M. Parker, as citizens by blood of the Choctaw Nation; on September 24, 1898, application was made by Albert R. Shockley for the enrollment of himself as a citizen by blood of the Choctaw Nation; on September 24, 1898, application was made by Elsora Shockley, for the enrollment of herself as a citizen by intermarriage of the Choctaw Nation, and for the enrollment of her child, Ethel Shockley, as a citizen by blood of the Choctaw Nation; on September 24, 1898, application was made by Pauline Shockley for the enrollment of herself as a citizen by intermarriage of the Choctaw Nation; and for the enrollment of her son, Albert P. Shockley, as a citizen by blood of the Choctaw Nation.

On November 12, 1900, written application was made to the Commission to the Five Civilized Tribes for the enrollment of Elva May Shockley, minor child of Ephriam E. Shockley and Ava Shockley; on December 14, 1899, written application was made for the enrollment of Mamie Shockley, minor child of Charles L. Shockley and Callie Shockley; and on October 30, 1899, and April 29, 1902, written application was made for the enrollment of Lodie P. Parker and William Leslie Parker, respectively, minor children of Lenora Parker and W. L. Parker, a non-citizen white man.

It appears from the records of the Commission to the Five Civilized Tribes that on September 9, 1896, in the case entitled "F. K. West vs. Choctaw Nation" (1896 Choctaw Citizenship Docket, Case No. 955), original application was made to said Commission, under the provisions of the Act of Congress approved June 10, 1896 (24 Stats., 321), for admission to citizenship in the Choctaw Nation of the applicants, Mattie Shockley (as Mattie L. Shockley), Felix F. West (as F. F. West), Ava Shockley, Callie Shockley, and Elzora Shockley as citizens by intermarriage of the Choctaw Nation, and John E. Shockley (as Eddie Shockley), Lula West, Roy West, Ephriam E. Shockley, Mattie Shockley, Leverett Shockley, Charles L. Shockley, Albert Shockley, Lenora Parker (as Nora Parker), Albert R. Shockley (as Albert Shockley), and Ethel Shockley as citizens by blood of the Choctaw Nation; that on December 5, 1896, said Commission rendered its decision therein admitting Mattie Shockley (as Mrs. Mattie L. Shockley), Felix F. West (as F. F. West), Ava Shockley, Callie Shockley, and Elzora Shockley as citizens by intermarriage of the Choctaw Nation, and John E. Shockley (as Eddie Shockley), Lula West, Roy West, Ephriam E. Shockley, Mattie Shockley, Leverett Shockley, Charles L. Shockley, Albert Shockley, Lenora Parker (as Nora Parker), Albert R. Shockley (as Albert Shockley) and Ethel Shockley, as citizens by blood of said Nation. From this decision of the Commission, an appeal was taken by the Choctaw Nation to the United States Court for the Central District of Indian Territory, which Court in the case entitled "F.K. West vs. Choctaw Nation" (Central District Citizenship case No. 226), affirmed the decision of said Commission, admitting Mattie Shockley (as Mattie L. Shockley), Felix F. West (as F.K. West), Ava Shockley, Callie Shockley and Elzora Shockley as citizens by intermarriage of the Choctaw Nation, and John E. Shockley (as Eddie Shockley), Lula West, Roy West, Ephriam E. Shockley, Mattie Shockley, Leverett Shockley, Charles L. Shockley, Albert Shockley, Lenora Parker (as Nora Parker), Albert R. Shockley (as Albert Shockley) and Ethel Shockley, as citizens by blood of the Choctaw Nation.

It further appears from the records of said Commission that on December 17, 1902, the Choctaw and Chickasaw Citizenship Court created under the provisions of the Act of Congress approved July 1, 1902 (32 Stat. 641) "set aside, annulled, vacated and held for naught" the aforesaid judgment of the United States Court for the Central District of Indian Territory.

Thereafter, the record in the above case was certified to the Choctaw and Chickasaw Citizenship Court for a trial de novo, which Court on March 21, 1904, in the case of "F.K. West et al., vs Choctaw and Chickasaw Nations" (Choctaw-Chickasaw Citizenship Court case No. 42 South McAlester Docket), "ordered, adjudged, and decreed that the petition of the plaintiffs, F.K. West, Ava Shockley, Callie Shockley, Elzora Shockley (or Alsara Shockley), Mattie L. Shockley, (now Mattie L. Osborn), Charles L. Shockley, Ephriam E. Shockley (as Ephriam E. Shockley), Eddie Shockley, Lula West, Albert Shockley, Roy West, Marie West, Mattie Shockley, Leverett Shockley, Ethel Shockley, Nora Shockley (now Nora Parker) and Albert R. Shockley, be denied, and that they be declared not citizens of the Choctaw Nation and not entitled to enrollment as such citizens, and not entitled to any rights whatsoever flowing therefrom."

On May 27, 1904, orders were entered of record by the Commission to the Five Civilized Tribes dismissing the applications for the enrollment of Corine West, Elva May Shockley, Herman Shockley, Mamie Shockley, Trevor M. Parker, Ludie F. Parker and William Lealie Parker as citizens by blood of the Choctaw Nation, for the reason that their parents through whom they claim their right to enrollment as citizens by blood of the Choctaw Nation had been denied by a decree of the Choctaw and Chickasaw Citizenship Court.

On December 16, 1904, the applicant, Lula West, forwarded a petition to the President, praying him to cause an investigation to be made of the allegations contained in said petition, and if said allegations were found to be true, to cause her name to be placed upon the final roll of citizens by blood of the Choctaw Nation.

Said petition was on February 15, 1905, (I.T.D. 10353-1904) forwarded by the Department to the Commission to the Five Civilized Tribes with instructions to permit the petitioner to submit such testimony in support of her claim as she may see fit, and enclosed a copy of an opinion of the Assistant Attorney General for the Department of the Interior of February 10, 1905 (I.T.D. 10353-1904) wherein it was held that said Commission had jurisdiction to examine into the claimants cause, and should adjudicate it upon its merits, regardless of the judgment of the Choctaw and Chickasaw Citizenship Court.

A motion for review was filed with the Department by the attorneys for the Choctaw and Chickasaw Nations, and on December 13, 1905, the Department (I.T.D. 6380-1905), forwarded a copy of an opinion of the Assistant Attorney General for the Department of the Interior of December 8, 1905 (I.T.D. 3693-1905), wherein he adhered to his former opinion rendered on February 10, 1905, and held that Lula West having on January 9, 1890, been admitted to citizenship in the Choctaw Nation by the Secretary of the Interior, the Commission to the Five Civilized Tribes had no jurisdiction under the act of June 10, 1896, to pass upon her rights, and the United States Court for the Central District of Indian Territory, and the Choctaw and Chickasaw Citizenship Court on appeal were also without jurisdiction. Copies of said opinion were forwarded the applicant Lula West, and her attorney of record on December 23, 1905.

Under the regulations adopted by the Commissioner to the Five Civilized Tribes on January 2, 1906, there was filed on January 22, 1906, by Thomas Norman, of Ardmore, Indian Territory, attorney for the petitioners, a petition verified by Lula West, and submitted on behalf of Lula West, F.K. West, Roy West, Marie West, Corine West, Elzera Shockley, Ethel Jones, (nee Shockley), Charles L. Shockley, Callie Shockley, Albert Shockley, Herman Shockley, Mamie Shockley, Herbert E. Shockley, E.R. Shockley, Ava Shockley, Mattie Shockley, Leverett Shockley, Elva May Shockley, Plasse Shockley, Pauline Daniel (nee Shockley), Albert Shockley, Mattie L. Osborn (nee Shockley), Eddie Shockley, Lenora Parker (nee Shockley), Treva Myrtle Parker, Ludia Franklin Parker, William Leslie Parker and Albert R. Shockley, praying that they be enrolled as citizens of the Choctaw Nation.

All of the above petitioners, with the exception of Herbert E. and Plasse Shockley, are identical with the applicants for whom application was made prior to December 25, 1902, for enrollment as citizens of the Choctaw Nation.

On February 8, 1906, the principal ~~apptd~~ petitioner, Lula West, her attorney, Thomas Norman of Ardmore, Indian Territory, and Messrs. Mansfield, McMurray & Cernish, attorneys for the Choctaw and Chickasaw Nations, of South McAlester, Indian Territory, were advised that the Commissioner to the Five Civilized Tribes would, at his office in Muskogee, Indian Territory, on Monday May 8, 1906, at four o'clock P.M. hear such testimony and receive such other evidence as might be submitted by the petitioners in support of their applications for enrollment as citizens of the Choctaw Nation and by the attorneys for the Choctaw and Chickasaw Nations.

By agreement of counsel the hearing in this case was continued from four o'clock P.M. on Monday, May 8, 1906, until seven o'clock, P.M. on the same day, at which time proceedings were had pursuant to the notices above mentioned.

It appears from the record herein that on July 15, 1899, on appeal from the adverse action of the Choctaw National Council, the United States Indian Agent, Lee E. Bennett, rendered a decision admitting John Shockley (now deceased), Mattie L. Shockley, William Shockley (now deceased), Elzera Shockley, Charles L. Shockley, Ephriam Shockley, Lula Shockley, and Robert Shockley to Choctaw Citizenship, said decision being on January 9, 1890, approved by the Secretary of the Interior. It is contended by the applicants herein that no such person as Robert Shockley ever existed; that the same was an error, and should have been Albert Shockley (now deceased), a son of John Shockley, the principal petitioner before the Indian Agent.

It further appears from the record herein that the principal applicant, Mattie Shockley, who was admitted by the Indian Agent as the wife of John Shockley, was on January 22, 1899, married to J.R. Osborn, a non-citizen white man; that John E. Shockley is a son of said Mattie Shockley and John Shockley, (now deceased), (admitted by the Indian Agent); that Lula West (admitted by the Indian Agent) is the daughter of John Shockley above mentioned, and Fatima Shockley (now deceased), a non-citizen white woman; that Roy, Marie and Corine West are the children of said Lula West and Felix K. West, an applicant herein, for enrollment as a citizen by intermarriage of the Choctaw Nation; that Ephriam E. Shockley (admitted by the Indian Agent) is the son of John Shockley and Fatima Shockley, above mentioned; that Mattie, Leverett and Elva May Shockley are the children of said Ephriam E. Shockley and Ava Shockley, an applicant herein for enrollment as a citizen by intermarriage of the Choctaw Nation; that Charles L. Shockley (admitted by the Indian Agent) is the son of John Shockley and Fatima Shockley above mentioned; that Albert, Hurman, and Mamie Shockley are the children of said Charles L. Shockley and Callie Shockley, an applicant herein for enrollment as a citizen by intermarriage of the Choctaw Nation; that Lenora Parker, was born about the year 1878, and is the daughter of William Shockley, deceased, (admitted by the Indian Agent) and Bettie Shockley (deceased), a non-citizen white woman; that Treva M. Ludie P., and William Leslie Parker are the children of said Lenora Park and W.I. Parker, a non-citizen white man; that Albert R. Shockley is the son of William Shockley and Bettie Shockley above mentioned; that the applicant Elzera Shockley, was by a decision of the Indian Agent admitted to Choctaw citizenship as the wife of William Shockley; that Ethel Shockley is the daughter of said Elzera Shockley and William Shockley, above mentioned; and that Albert P. Shockley was born in 1897 and is the son of Albert Shockley, (now deceased-who, (as Robert Shockley) was also admitted by the decision of the Indian Agent).

Upon an examination of the tribal rolls of the Choctaw Nation in the possession of this office, it appears that John E. Shockley, Lula West, Roy West, Ephriam E. Shockley, Mattie Shockley, Charles L. Shockley and Albert Shockley are identified upon the 1893 Choctaw Leased District Payment Roll, Chickasaw District, numbers 501, 581, 582, 498, 499, 497 and 500, respectively, enrolled thereon as citizens by blood of the Choctaw Nation.

It further appears from the record herein that the applicant, Felix K. West, was on August 20, 1899, under the laws of Tennessee, married to the applicant Lula West; that the applicant Ava Shockley was on July 30, 1890 lawfully married to the applicant Ephriam E. Shockley; that the applicant Callie Shockley was on December 10, 1893, lawfully married to the applicant, Charles L. Shockley; and that Pauline Shockley was on November 2, 1894, lawfully married to Albert Shockley, (now deceased), who (as Robert Shockley) was admitted to Choctaw citizenship by the decision of the Indian Agent.

It further appears from the record herein and from the records of the Commission to the Five Civilized Tribes that the applicants Felix K. West, Lenora Parker, Treva M. Parker, Ludie F. Parker, and William Leslie Parker, have never been enrolled by the Choctaw tribal authorities as members of the Choctaw tribe, or admitted to Choctaw citizenship by a duly constituted Court or committee of the Choctaw Nation, or by the United States Indian Agent, nor has the applicant, Felix K. West ever been married to the applicant Lula West, through whom he claims his intermarried rights by virtue of a license issued by the tribal authorities of the Choctaw Nation.

It further appears from the records herein that all the applicants herein, who were living at said time, with the exception of Elzora Shockley and Ethel Shockley were residents in good faith of Indian Territory on June 28, 1898.

As to the applicant Elzora Shockley, the evidence herein shows that she was born in the state of Arkansas and resided there continuously until 1886, when she removed to the Indian Territory where she resided until 1899; that thereupon she returned to the State of Arkansas, where she resided continuously until 1900; and that the applicant Ethel Shockley was born in the State of Arkansas in about the year 1891, and resided continuously therein with her mother, Elzora Shockley until 1900:

From the above it is considered that the applicants Elzora Shockley and Ethel Shockley, were not residents in good faith of Indian Territory on June 28, 1898, as provided by section 21 of the Act of Congress approved June 28, 1898 (30 Stat. 495).

It further appears from the record herein that on March 5, 1906, application was made to the Commissioner to the Five Civilized Tribes for the enrollment of Plasse Shockley and Herbert E. Shockley as citizens by blood of the Choctaw Nation. The applicant Plasse Shockley was born on April 6, 1903, and is the daughter of the applicants, Ephriam E. Shockley and Ava Shockley; and that the applicant Herbert E. Shockley was born June 15, 1903 and is the son of the applicants, Charles L. Shockley and Callie Shockley.

The Act of Congress approved March 3, 1905 (33 Stats. 1070) Provides:

"That the Commission to the Five Civilized Tribes is authorized for sixty days after the date of the approval of this Act to receive and consider applications for enrollment of children born subsequent to September twenty-five, nineteen hundred and two, and prior to March fourth, nineteen hundred and five, and who were living on said latter date, to citizens by blood of the Choctaw and Chickasaw tribes of Indians, whose enrollment has been approved by the Secretary of the Interior prior to the date of the approval of this act; and to enroll and make allotments to such children."

I am of the opinion that inasmuch as the applicants, Plasse Shockley, and Herbert E. Shockley, are not the children of recognized and enrolled citizens by blood of the Choctaw Nation, whose enrollment has been approved by the Secretary of the Interior prior to March 3, 1906, I am now without authority to receive or consider their applications for enrollment as citizens by blood of the Choctaw Nation, and that the same should be dismissed without prejudice to the applicants, and it is so ordered.

I am of the opinion that the orders of the Commission to the Five Civilized Tribes of May 27, 1904, dismissing the applications for the enrollment of Corine West, Elva May Shockley, Hurman Shockley, Mamie Shockley, Treva M. Parker, Ludie F. Parker, and William Leslie Parker should be rescinded.

I am further of the opinion that in accordance with the opinions of the Assistant Attorney General for the Department of the Interior of February 10, 1905, (I.T.D. 10383-1904), and December 8, 1905 (I.T.D. 3693-1905), in the case of Lula West, that John E. Shockey, Lula West, Roy West, Marie West, Corine West, Ephraim E. Shockey, Mattie Shockey, Leverett Shockey, Elva May Shockey, Charles L. Shockey, Albert Shockey, Herman Shockey, Mamie Shockey, Albert E. Shockey and Albert P. Shockey, should be enrolled as citizens by blood of the Chectaw Nation, and that Mattie Osburn Ava Shockey, Callie Shockey, and Pauline Shockey, should be enrolled as citizens by intermarriage of said Nation, under the provisions of the Act of Congress approved June 28, 1898 (30 Stats. 495) and July 1, 1902 (32 Stats. 641), and it is so ordered.

I am further of the opinion that the applications made for the enrollment of Felix K. West and Elvera Shockey as citizens by intermarriage of the Chectaw Nation, and the applications for the

enrollment of Lenora Parker, Treva E. Parker, Lusia F. Parker, William Leulis Parker and Ethel Shockey, as citizens by blood of said Nation should be denied, under the provisions of the Act of Congress approved June 28, 1898 (30 Stats. 495), and it is so ordered.

(Signed) Tams Dixby,
Commissioner.

Muskogee, Indian Territory,
March 19, 1906.

2-5-06.
CONF

Muskogee, Indian Territory, May 4, 1906.

Albert R. Shockley,
Durwood, Indian Territory.

Dear Sir:

You are hereby advised that the Commissioner to the Five Civilized Tribes on March 19, 1906, rendered his decision in the matter of the application for the enrollment of Mattie Shockley, et al. as citizens of the Choctaw Nation, consolidating the applications of

Mattie Shockley, et al.,	7-5238
Lula West, et al.,	7-5191
Ephriam E. Shockley, et al.,	7-5109
Charles L. Shockley, et al.,	7-5188
Lenora Parker, et al.,	7-5190
Albert R. Shockley,	7-5193
Elzora Shockley, et al.,	7-5189
Pauline Shockley, et al.,	7-D-51.

By this decision the application of yourself as a citizen by blood of the Choctaw Nation was granted.

Respectfully,

SIGNED

Acting Commissioner.

(COPY)

The Choctaw Nation.

vs.

J.E.Shockley, et als.

Before the U.S.Ind. Agt.

Union Agency, I.T.

March 26, 1889.

J. E. Shockley, the claimant in this case, bases his claim on the ground of being a lineal descendant of the Choctaw tribe of Indians. This claim is supported by the testimony of witnesses whose statements you will herein find. The case is hereby submitted for your action -- on the merits of the evidence.

Respt.

A. Telle,

Atty. for the Choctaw Nation
In appealed citizenship cases

(COPY).

Union Agency, Muscogee, I.T.,

March 26, 1889.

In the matter of

John E. Sheekley

vs.

Disputed citizenship

Choctaw Nation.

Before the United States Indian Agent.

The claimant in the above styled cause by his attorney
confidently submits said case on its merits.

J. S. Standley,

Atty. for claimant.

(COPY).

Union Agency

Muskogee, Ind. Ter., July 15, 1899.

JOHN SHOCKLEY

vs.

CHOCTAW NATION.

OPINION OF LEO E. HIGGINS, UNITED STATES INDIAN AGENT, ON
APPEAL TAKEN FROM DECISION OF THE CHOCTAW NATIONAL COUNCIL.

The evidence in this case shows that in October, 1888, the claimant, John Shockley, filed a petition before the General Council of the Choctaw Nation, asking that all the rights, privileges and immunities of Choctaw citizenship be granted unto the petitioner, John Shockley, and his family, to wit: Mattie L. Shockley, his wife, and their several children as follows: William Shockley age 20 and his wife Elzora Shockley age 18, Charles L. Shockley age 18, Ephraim Shockley age 16, Lula Shockley age 14 and Robert Shockley age 12: and that claimant based his petition upon the allegation that as, the petitioner is a Choctaw by blood, being the son of Nancy Shockley who was a half-breed Choctaw woman who lived and died in Tennessee and that after the death of petitioner's parents he went to live with his mother's half-sister, who is a fullblood Choctaw.

The evidence taken in the case before the Council consisted of a statement by Harry Wages that "the old people" meaning the old Choctaws, told affiant that Ephraim Shockley, who was the father of petitioner, had married a Choctaw woman and that the petitioner had always represented himself as a Choctaw. Wade Hampton, a venerable and intelligent old gentleman who is well known to me and who at

the time of giving his evidence before the Council was a Senator, stated that he knew petitioner in Tennessee in the year 1859 and subsequently and that petitioner was at that time living with a woman who claimed to be Choctaw and who talked Choctaw as well as English, that she had a mark known as "six town" and she was a member of that town; that affiant heard this woman claim petitioner as her nephew and that her general reputation was of being a Choctaw. Clayton Shookley who has been personally known to me for several years as a man of good repute and entitled to credit stated that he knew petitioner for forty years, that petitioner was considered a Choctaw from childhood, that he knew petitioner's father and mother and that Nancy Shookley, the mother of petitioner, was considered a Choctaw half-breed, that after the mother's death this Aunt Huldah, a half-sister of the mother and herself a Choctaw, a full blood, took charge of petitioner and raised him; that subsequently petitioner was sent off to learn a trade and thus separated from his Aunt Huldah and his brother and sister who are still living in Tennessee.

In support of his allegation the petitioner stated that his mother had told him he was an Indian but he did not remember if she said Choctaw; that his Aunt Huldah told him they were Choctaws; that Wade Hampton often came to their house and told him that he was a Choctaw, that his aunt spoke of her kin folks being in Mississippi and that she belonged to the "six town clan."

James Good stated that he had known the Shookley family ever since he could remember and they were always called Choctaws; that the father of petitioner was a white man but the mother a half-

breed Choctaw, that they said they were Indians, were called Indians and looked like Indians, that he is fifty-five years of age.

By resolution approved October 29th, the Choctaw Council rejected the prayer of petitioner, and this review is upon his appeal from their decision.

In a communication of November 5th to this office, the petitioner states that upon the advice of Captain J.S. Standley, the present National Agent of the Choctaw Nation, returned home from Council and bought an improvement near Stringtown. That he came to the Choctaw Nation because Wade Hampton, to whom I have previously referred as a Senator and prominent Choctaw, wrote him that he would not have any trouble in establishing his right.

On November 28th, National Secretary Telle states officially that he reduced the statements of Clayton Shookley and Mat Goad to writing and that he is satisfied from their answers that they were honest in their opinions touching the same.

On November 30th Hon. B. F. Smallwood, Principal Chief of the Choctaw Nation, wrote this office that the evidence presented appeared to his mind to be worthy of consideration and he asks that the claim of said Shickley be examined for he "believed the same to be a bona-fide citizen of our Nation."

The evidence in this case is all ex-parte but has been taken before the Choctaw authorities and the attorney of that Nation, Mr. A. Telle, under date of March 26th, 1899, submits the case upon the merit of the evidence above summarized. In my opinion the petitioner has made out a strong case with presumptive evidence which is rather persuasive than convincing. All the evidence, both pro and con that can be obtained is herewith submitted. The Choctaw Nation

by its Chief Magistrate admits the justness of petitioner's prayer and rests the case upon the evidence as presented.

In such case as this it appears to me that there could only be one conclusion, for all the evidence is favorable to the petitioner and not only so but the Chief Magistrate of the Choctaw Nation frankly admits that it is his belief that the petitioner is a bona-fide citizen of the Choctaw Nation. In answer the Choctaw Nation rests entirely upon the Resolution of the Choctaw Council denying this petitioner's prayer. A denial is not evidence against petitioner's claims.

Having fully considered the premises it is my opinion that the petitioner, John Shockley, is a Choctaw Indian through his mother, Nancy Shockley, and as such is entitled to citizenship in the Choctaw Nation. I therefore decide this appeal in favor of the petitioner.

(Signed) Lee E. Bennett,
U. S. Indian Agent.

Refer in reply
to the following:

I
34241-1889

1 enclosure

(COPY) C.A.M.
R.V.B.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON, January 8, 1890.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to enclose, herewith, a letter of November 26, 1889, from Leo E. Bennett, Esq., Union Indian Agent at Kuscogee, Indian Territory, transmitting the evidence in the case of John Shockley, and others, claimants to Choctaw citizenship, appealed from the adverse decision of the Choctaw National Council, and his findings in favor of the appellants.

Inasmuch as the claim is not contested by the Choctaw Authorities, before the Agent, it is not deemed necessary to review the evidence submitted by the claimant, which is admitted by the attorney for the Nation, to support the claim, and I have the honor to recommend that Agent Bennett's findings in the case be approved.

Very respectfully,

Your obedient servant,

T. J. Morgan,

Commissioner.

(Murchison)

(COPY).

DEPARTMENT OF THE INTERIOR.

Washington, January 9, 1890.

The Commissioner of Indian Affairs.

Sir:

I have considered the decision of U. S. Indian Agent L.E. Bennett, Union Agency, Indian Territory, in the matter of the claim of John Sheekley and family, to Choctaw citizenship, which accompanied your communication of 8th instant, and in view of the fact that this claim is not contested by the Choctaw authorities, Agent Bennett's findings in favor of claimants, is, as recommended by you, approved.

The papers which accompanied your communication are herewith returned.

Very respectfully,

Geo. Chandler,

Acting Secretary.

173, Ind. Div. #90.

Nine enclosures.

Ardmore, I. T. december 16th, 1904.

To his Excellency, Theodore Roosevelt, President of the United
States of America,

Washington, D.C.

Dear Sir:

Your applicants in the within petition desire to bring the
matters set out therein to your personal attention. We fully
realize the immense amount of business before you, and well know
that your personal attention cannot be given to everything; and
yet at the same time we believe we will get the wrongs done us
righted if we can get the matter before your Excellency; so with
the hope that you may be able to grant us a personal hearing, we
humbly submit our cause into your hands, asking you to remember
that we are poor and ignorant Indians, and with no one to appeal
to except yourself, in whom will you permit us to say we fully
confide.

Very truly yours

Mrs Loula Vest, "Nee Shookley.

DEPARTMENT OF THE INTERIOR,
Received
DEC 21 1904
No. 10353
Indian Territory Division.

DEPARTMENT OF THE INTERIOR
FEB 10-1905.
Returned with No. 1464
inclosure 2 IND, TER. DIV.

Petition of F. K. West, et al.

Before His Excellency,

The President of the United States,

Washington, D.C.

Your petitioners herein Charles L. Shockley, Ephriam Shockley, Loula West, nee Shockley, and their Mother, Mattie L. Shockley and Elzora Shockley, wife of William Shockley, deceased, respectfully state that some of them are Indians by blood and the remainder of them are white people, who have intermarried with them, and that they all live in the Indian Territory, and have lived in this Territory for over twenty years and that during all the time they have been in the Indian Territory and all time before, your petitioners claimed to be of Choctaw descent, and claimed to be entitled to all the rights, privileges and immunities incident thereto; that on the -- day of _____ these parties above upon an appeal from the Council of the Choctaw Nation to the United States Indian Agent at Muskogee, Indian Territory, were on the 15th day of July, 1889, admitted to citizenship of the Choctaw tribe of Indians in virtue of the decision rendered on that day by the Honorable Lee E. Bennett, at that time the United States Indian Agent for the Five Civilized Tribes, who by virtue of his official position and the Laws of the United States, and of the Indian Nation, had authority to pass upon their claim for citizenship and jurisdiction to entertain the appeal heretofore mentioned and to admit your petitioners to the rights of citizenship for which they were prosecuting an application.

The judgment of the Indian Agent is as follows:

Union Agency

John Shockley, et al.

vs

Choctaw Nation

Muskogee, Indian Territory.

July 15th, 1889.

Opinion of Leo E. Bennett.

United States Indian Agent on appeal taken from decision of the Choctaw National Council.

The evidence in this case shows that in October 1886, the claimant, John Shockley, filed a petition before the general Council of the Choctaw Nation, asking that all of the rights, privileges and immunities of Choctaw citizenship be granted unto the petitioner, John Shockley and his family, to wit:- Mattie L. Shockley, his wife, and their several children, as follows:- William Shockley, age twenty, and his wife, Elzora Shockley age eighteen, Charles L. Shockley age eighteen, Ephriam Shockley age sixteen, Lula Shockley age fourteen and Albert Shockley age twelve; and that claimant based his petition upon the allegation that he, the petitioner is a Choctaw by blood, being the son of Nancy Shockley, who was a half-breed Choctaw woman who lived and died in Tennessee and that after the death of petitioners parents he went to live with his Mother's half-sister, who is a full-blood Choctaw. The evidence taken in the case before the Council consisted of a statement by Henry Wage, that "the old people", meaning the old Choctaw told affiant that Ephriam Shockley, who was the father of petitioner had married a Choctaw woman, and that the petitioner had always represented himself as a Choctaw.

Wade Hampton, a venerable and intelligent old gentleman, who is well known to me and who at the time of giving his evidence before the Council was a Senator, stated that he knew petitioner in Tennessee in the year 1859, and subsequently and that petitioner was at that time living with a woman who claimed to be Choctaw, and who talked Choctaw as well as English; that she had a mark known as "Sixtown" and she was a member of that town; that affiant heard this woman claim petitioner as her nephew, and that her general reputation was of being a Choctaw.

Clayton Shockley who has been personally known to me for

3.

several years as a man of good reputation and entitled to credit stated that he knew petitioner for forty years; that petitioner was considered a Choctaw from childhood; that he knew petitioner's father and mother, and that Nancy Shockley, the mother of petitioner was considered a Choctaw half-breed; that after the mother's death this Aunt Huldah, a half-sister of the mother and herself a Choctaw full-blood took charge of petitioner and raised him; that subsequently petitioner was sent off to learn a trade and thus separated from his Aunt Huldah and his brother and sister who are still living in Tennessee.

In support of his allegation the petitioner states that his mother had told him he was an Indian but did not remember if she said Choctaw; that his Aunt Huldah told him they were Choctaws; that Wade Hampton often came to their house and told him that he was a Choctaw; that his Aunt spoke of her kin folk being in Mississippi and that she belonged to the "Sixtown Clan".

James Good stated that he had known the Shockley family ever since he could remember and they were always called Choctaws; that the father of petitioner was a white man, but his mother was a half-breed Choctaw; that they were Indians, were called Indians and looked like Indians; that he is forty-five years of age.

By resolution approved October 29th the Choctaw Council rejected the prayer of petitioner and this review is upon his appeal from their decision.

In a communication of November 5th to this Office, the petitioner states that upon the advice of Captain J. B. Stanley, the present National Agent of the Choctaw Nation, he returned home from Council and bought an improvement near Stringtown; that he came to the Choctaw Nation because Wade Hampton, to whom I have previously referred as a Senator and prominent Choctaw wrote him that he would have no trouble in establishing his right.

4.

On November 28th National Secretary Tell states officially that he reduced the statements of Clayton Shockley and Mat Good to writing and that he is satisfied from their answers that they were thoroughly acquainted with the facts as stated; and that they were honest in their opinions touching the same.

On November 30th Honorable H. V. Smallwood, principal Chief of the Choctaw Nation, wrote this office that the evidence presented appeared to his mind to be worthy of consideration and he asked that the claims of said Shockley be examined for he believed the same to be a bona-fide citizen of our Nation.

The evidence in this case is all ex parte but has been taken before the Choctaw Authorities and the Attorney of that Nation, Mr. Telle, under date of March 28th 1889, submits the case upon the merit of the evidence above summarized.

In my opinion the petitioner had made out a strong case with presumptive evidence which is rather persuasive than convincing. All the evidence both pro and con that can be obtained is herewith submitted. The Choctaw Nation by its Chief Magistrate submits the justice of petitioners prayer and rests the case upon the evidence as presented.

In such a case as this it appears to me that there could only be one conclusion. For all the evidence is favorable to the petitioner and not only so but the Chief Magistrate of the Choctaw Nation frankly admits that it is his belief that the petitioner is a bona-fide citizen of the Choctaw Nation. In answer the Choctaw Nation rest entirely upon the resolutions of the Choctaw Council, denying petitioner's prayer. A denial is not evidence against petitioner's claim.

Having fully considered the premises it is my opinion that the petitioner, John Shockley, is a Choctaw Indian through his Mother, Nancy Shockley, and as such is entitled to citizenship in the Choctaw Nation.

5.

I therefore decide this appeal in favor of the petitioner.

(signed) Leo E. Bennett,

U. S. Indian Agent.

Your petitioner further states that the said Leo E. Bennett as United States Indian Agent, as aforesaid, did on the 26th day of November 1889, transmit all the papers in said cause together with the judgment, which he had rendered therein after due notice had been given to the Choctaw Authorities, to the Secretary of the Interior and the Commissioner of Indian affairs, that on January 8th, 1890, Commissioner of Indian affairs took under consideration the approval or rejection of the action of the United States Indian Agent for the Five Civilized Tribes admitting your petitioners to citizenship, and on said day last mentioned the Honorable T. J. Morgan, then Commissioner of Indian affairs made a recommendation to the Secretary of the Interior that the judgment of the United States Indian Agent for the Five Civilized Tribes in admitting these people to citizenship be approved; that on January 9th, 1890, Honorable George Chandler, then acting Secretary of the Interior passing upon the judgment of said United States Indian Agent for the Five Civilized Tribes, and upon the recommendation of the Commissioner of Indian affairs, approved of the judgment of the said Indian Agent and render judgment in accordance with the recommendation of the Commissioner of Indian Affairs. All the various matters herein above mentioned and set forth are of record in the various departments of the Secretary of the Interior, and are accessible and can be had.

Subsequently Congress passed an act on the 10th day of June 1896, directing the Commission to the Five Civilized Tribes, commonly known as the Dawes Commission to prepare and forward to the Secretary of the Interior correct rolls of all of the members of the various Five Civilized Tribes. Your petitioners applied to this Commission for enrollment. The act of June 10th 1896, provided,

6.

as follows: "The rolls of citizenship of the various tribes as now existing are hereby confirmed", and the acts also provided that the parties whose claims for citizenship are disputed or denied or not acted upon might have their rights determined by the said Commission, but with this later provision your petitioners have no concern, because at that time the rights of your petitioners herein had been determined, and they were upon the rolls of citizenship of the Choctaw Nation and had theretofore. On the ____ day of _____, 1893, drawn their pro rata part of the leased district money going to the members of the Five Civilized Tribes, a record of this will be found in the possession of the said Dawes Commission.

As stated above your petitioners applied to the Dawes Commission, aforesaid, to be enrolled under that provision of the act of June 10th, 1896, alluded to above, providing, "That the rolls of citizenship of the several tribes as now existing are now confirmed." On the 7th day of June 1897, Congress of the United States passed an act defining what the said words "Rolls of Citizenship" meaning in the act of 1896 said provision is as follows "that the words "rolls of citizenship" as used in act of June 10th 1896, making provision for current and contingent expenses of the Indian Department for fulfilling treaty stipulations, that the various tribes for the fiscal year ending June 30th, 1897, should be construed to mean the last authenticated rolls of each tribe which have been approved by the Council of the Nation and all descendants as have been entered on such rolls and such additional names and their descendants as have been added either by the Council of such Nation; the duly authorized Court thereof or the Commission under the act of June 10th, 1896,

As stated above at the time the later act was passed

8.

your petitioners were then upon the authenticated rolls of the Choctaw Nation, a record of which is in the possession of the so called Dawes Commission, and in virtue of the decision of the United States Indian Agent admitted them to citizenship and the approval of their judgment forwarded by the Secretary of the Interior, as well as under the above acts of Congress, they were entitled to be placed upon the rolls of citizenship of the Choctaw Nation. This was done and your petitioners were duly enrolled. The Choctaw Nation, however, were aggrieved by the action of the Dawes Commission and although they had no right or authority to do so, and in open violation of the law appealed from the decision of the Dawes Commission to the United States Court for the Central District of the Indian Territory, which said Court your petitioners allege had no jurisdiction of this cause whatever;

Subsequently on the ___ day of _____ the Court disregarding their want of jurisdiction entered judgment, however, approving of the action of the Dawes Commission and admitted again and anew your petitioners to all the rights, privileges and immunities of the citizens of the Choctaw Tribe of Indians, which action of said Court however added nothing of the rights which they were already possessed of as the rights of your petitioners were confirmed by the acts of Congress heretofore alluded to;

Subsequently the Congress of the United States under Section 31, 32 and 33 of the act approved on the 1st day of July 1902, created a Court known as the Choctaw-Chickasaw Citizenship Court. This Court proceeding under the authority granted it by this act of Congress annulled all of the judgments heretofore rendered by the United States Courts in the Indian Territory, including your petitioners' judgment, whereupon your petitioners after the cause had been transferred to the Choctaw-Chickasaw Citizenship Court filed a written motion to have their cause dismissed, still

9.

alleging and asserting that the Courts had no jurisdiction over them as their rights had been fixed by the judgment of the United States Indian Agent, which judgment had been confirmed by the said decision of the Secretary of the Interior, and their names had been duly and legally placed upon the authenticated rolls of citizenship of the Choctaw Nation, and further that Congress had confirmed that roll, which confirmation of the roll by the Congress of the United States above alluded to carried with it an absolute right for your petitioners enrollment and the absolute duty upon the part of the Dawes Commission to make the enrollment of them. This Choctaw-Chickasaw Citizenship Court absolutely ignored your petitioners' motion, whereupon your petitioners declined and refused to submit their cause to that Court, this motion will be found with the records of this cause now in the hands of the said Choctaw-Chickasaw Citizenship Court. Your petitioners allege and charge that the three members of this Court were violently prejudiced against your petitioners, and that one of them long before he had tried any of the cases coming before him had stated to various parties that he intended to deny rights of citizenship to as many as he possibly could, and when the motion was made to have your petitioners case dismissed in this Court one of the Judges before the public and from his judicial seat in the Court Room, in an angry and contentious voice declared that your petitioners should never leave that Court until a decision had been rendered denying them of the rights of citizenship, and your petitioners charge that they grossly and wantonly trampled upon the rights of your petitioners, yet in utter disregard of all this the said Choctaw-Chickasaw Citizenship Court falsified its judgment and entered a judgment to the effect that your petitioners had submitted the cause to them and further denying all rights of citizenship to your petitioners.

Subsequently your petitioners made application of the

10.

Commission to the Five Civilized Tribes to be enrolled as citizens of the Choctaw Nation in virtue of the aforesaid judgment of the Secretary of the Interior, and under the acts of Congress heretofore alluded to confirming the rolls of citizenship upon which the cause of your petitioners is to be found. The justness of your petitioners request was admitted by the said Dawes Commission, and they admit that the rights of your petitioners were fixed and vested by the said acts of Congress and the Secretary of the Interior and that your petitioners ought to be enrolled, but claimed that the Honorable Secretary of the Interior had issued an order, which as interpreted by the said Dawes Commission preventing them from enrolling your petitioners upon the ground that the adverse decision had been made to their claim by the aforesaid, Choctaw-Chickasaw Citizenship Court, whose judgment your petitioners then allege as they now allege was rendered without right or authority, and in open defiance of the law for the purpose of preventing your petitioners' enrollment by the said Dawes Commission, which allegation your petitioners beg to submit is true and correct.

Now your petitioners in conclusion allege that they are humble citizens of the Choctaw Nation and are looking to the Great Government of the United States, and especially to your Honorable Self to protect them in their rights and defend them against the wrongs and injustice;

Wherefore they respectfully pray your Excellency for an order directed to the Honorable Secretary of the Interior, requesting him to investigate your petitioners allegations herein made, and if found to be true place them upon the final rolls of the Choctaw Nation and that they be permitted to share in the share in the distribution of the tribal property, which is now being allotted

11.

in severalty to those whose names appear upon said final rolls.

Louis West and Sheekley

Subscribed and sworn to before me this 10th day of Dec. A.D.
1904.

J. S. Mullen

Notary Public.

(SEAL)

DEPARTMENT OF THE INTERIOR
Received
DEC 21 1904.
Enc. No. 1 of No. 10353
Indian Territory Division.

DEPARTMENT OF THE INTERIOR,
FEB 10, 1905.
Returned with En. 10353
inclosure 1 Ind. Ter. Div.

COPY.

Muskogee, Indian Territory, January 9, 1906.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to acknowledge receipt of Departmental letter of December 13, 1905 (I T D 6380, 16856-1905), enclosing an approved opinion of the Assistant Attorney General for the Department of the Interior of December 8, 1905, in the Choctaw enrollment case of Loula West, et al.

I desire to respectfully invite the attention of the Department to the comment of the Assistant Attorney General in his opinion referred to, upon the letter of the Commission to the Five Civilized Tribes of March 24, 1905, as follows:

"The plaint of the Commission seems to be, in substance, when analyzed, that consideration of the cases of persons claiming right of citizenship, resident in the Nation and borne on the tribal rolls, will involve so much labor, and be so inconvenient, that it prefers they should not be heard, regardless of whether they were ever properly within the jurisdiction of the Commission in 1896 and of the Citizenship Court, or not, so only these tribunals or the latter one assumed to render a decision depriving them of their clear right. It is needless to say that I am of the opinion that the considerations suggested by the Commission are not of a character entitled to executive or judicial consideration."

I recognize as conclusive, as to the propositions of law, and as binding upon this office in the disposition of cases coming

(2)

within the purview thereof, the opinion of the Assistant Attorney General of February 10, 1905 (I T D 10353-1904) and which is adhered to in his opinion of December 8, 1905 (I T D 3693-1905) in the Loula West case.

I desire, however, to respectfully invite the attention of the Department to the fact that the opinion of the Assistant Attorney General of February 10, 1905, was rendered upon the petition of Mrs. West addressed to the President, without any report upon the allegations being submitted by the Commission to the Five Civilized Tribes and without knowledge by said Commission that the Department or the Assistant Attorney General had the same under consideration.

The Commission to the Five Civilized Tribes, prior to the receipt of Departmental letter of February 15, 1905 (I T D 10353-1904, 1484-1905), had advised persons who had been denied citizenship in the Choctaw and Chickasaw Nations by decrees of the Choctaw and Chickasaw Citizenship Court that there was no relief or redress for them. This stand was taken by the Commission after a full consideration of the law and was thought to be in accordance with the construction placed upon the law by this Department and the Department of Justice.

It was not the intention of the Commission in its letter of March 24, 1905, to criticize, nor do I find anything therein

(3)

which can be construed as criticism of, the opinion rendered by the Assistant Attorney General February 10, 1905, in the Loula West case.

The opinion of February 10, 1906, was in direct contradiction to information being furnished by the Commission to persons denied by decrees of the Choctaw and Chickasaw Citizenship Court, and before taking action under said opinion it was merely desired to express the opinion of the Commission as to the construction that had been placed by it upon the law and upon previous Departmental rulings in reference to the finality of decisions rendered under the Acts of Congress approved June 10, 1896 and July 1, 1902.

The Commission to the Five Civilized Tribes had been the subject of general and Congressional censure for seeming delays in the prosecution of the work assigned to it by law, and in the letter of the Commission of March 24, 1905, in addition to stating its opinion of the law relative to cases of this character, it was the desire of the Commission to present to the Department the further fact that if it was called upon to readjudicate the applications of persons who had been denied by decrees of the Choctaw and Chickasaw Citizenship Court it would be necessary to proceed to a trial de novo of practically all of the cases which had been adjudicated by that Court and that such proceedings would of necessity consume much time.

(4)

I do not hesitate to express the opinion that it will require at least a year from the present date to make disposition of the applications of persons who were denied by decrees of the Choctaw and Chickasaw Citizenship Court and who are now demanding a hearing under the opinion of the Assistant Attorney General in the Loula West case.

As exemplifying the attitude of Congress in reference to the completion of the work of enrollment in the Five Civilized Tribes, I desire to respectfully invite attention to a provision undoubtedly prepared by a leading member of the House Committee on Indian Affairs and inserted at the end of Section 2 of H. R. Bill No. 5976, entitled "An Act To provide for the final disposition of the affairs of the Five Civilized Tribes, and for other purposes," as follows:

"That the rolls of tribes affected by this act shall be fully completed on or before the fourth day of June, 1906."

It will be impracticable to make effective this provision of the act referred to, should the same become law, but it clearly indicates the desire and intent of Congress to complete the enrollment work in the Five Civilized Tribes without delay.

It was not with any idea of complaint as to the amount of work delegated to the Commission to the Five Civilized Tribes that its letter of March 24, 1905, was written, but with the earnest purpose of presenting clearly to the Department the fact

(5)

that under this construction of the law the work performed by the Citizenship Court would have to be gone over in large part again, and the enrollment work in the Choctaw and Chickasaw Nations would be indefinitely prolonged.

There are approximately two thousand five hundred persons who were denied citizenship in the Choctaw and Chickasaw Nations by decrees of the Choctaw and Chickasaw Citizenship Court and probably every one of these persons will now assert a right to a hearing under the opinion of the Department in the Loula West case. That these hearings will necessitate a considerable expenditure of government money and an indefinite extension of the time within which the enrollment work in these two nations can be completed certainly can not be questioned.

The Assistant Attorney General, in his opinion of December 8, 1905, especially criticizes the language used by the Commission to the Five Civilized Tribes, in its letter of March 24, 1905, as follows:

"This broad grant of power now seemingly conferred by the opinion of the Assistant Attorney General, of February 10, 1905, will practically re-open for adjudication a number of cases which have been adjudicated by the Commission under the Act of June 10, 1896, and by the Choctaw and Chickasaw Citizenship Court."

and states that it is not his province, nor does he assume to make a "broad" nor yet any "grant of power" to the Commission.

I have to report that a procedure has been adopted by me

(6)

for the hearing of persons claiming under the opinion of the Assistant Attorney General in the Loula West case, and it will be the desire and purpose of this office to expedite, as far as practicable, the hearing and disposition of such cases.

I can not but believe that the doctrine enunciated by the Assistant Attorney General in his opinion in the Loula West case, has conferred upon the Department jurisdiction in the cases of these persons which was not contemplated by the act of July 1, 1902 (32 Stats., 641), in the creation of the Choctaw and Chickasaw Citizenship Court.

It is not, however, my province to question these opinions and they will be considered conclusive as to the procedure to be had thereunder before this office, but I would certainly be derelict in the observance of proper respect for the views of my former coadjutors, concurred in at the time by myself, did I fail to express the opinion that the criticism of the Assistant Attorney General of the letter of the Commission to the Five Civilized Tribes of March 24, 1905, was ill considered, unjustifiable and pusillanimous.

Respectfully,

Commissioner.

DIRECT.

SPECIAL.

J.P.

**DEPARTMENT OF THE INTERIOR,
WASHINGTON.**

FHE

**D.C. 2920-1907.
I.T.D. 25068-1906.
818-1907.**

January 15, 1907.

LRS

**Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.**

Sir:

Referring to departmental letters of January 9 and 14, 1907, in the matter of the application for the enrolment of Mattie Shockley et al., as citizens by blood of the Choctaw Nation, you are advised that by direction of the President the case will be submitted to the Attorney-General for his opinion. You will suspend action relative to these claimants until further advised.

Respectfully,

Thos Ryan

First Assistant Secretary.

D. C. 10915-1907.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

JP.

LHB

February 23, 1907.

I. T. D. 4864-1907.

L. R. S.

Direct.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

Confirming telegram of this date, as follows--

"You are directed to inspect the partial rolls of citizens of the Choctaw and Chickasaw nations to determine what persons have been enrolled thereon contrary to the views expressed by the Attorney-General in opinion of February 19, copy sent you this day, and whose names should be stricken therefrom. You will furnish the Department a list of such names with roll numbers, and give such information that it may readily determine whether such names should be stricken from the rolls. This information should reach the Department before March first. Take like action relative to the rolls of the Cherokee and Creek nations.

It was held in such opinion, among other things, that the decisions of the Commission under act of 1896, not appealed from, were final, and that the decisions of the Choctaw and Chickasaw Citizenship Court were final, whether claimant's name was on tribal rolls or not.

Decisions of the Department, based upon opinions of the Assistant Attorney-General, in favor of claimants in the cases of Loula West et al., William C. Thompson et al., and Richard B. Coleman et al. are rescinded in letter to you of this day. The decision of the Department in the Ethel Pierson case, minor child of a Choctaw freedman, is sustained in the opinion of the Attorney-General.

E. A. Hitchcock,
Secretary."

a copy of the opinion of the Attorney-General referred to therein is inclosed, and you are directed to strike the names of the claimants in the Choctaw enrollment cases of Loula West et al., if enrolled; William C. Thompson et al., and Richard B. Coleman et al. from the partial roll of citizens of the Choctaw Nation, as of this date, referring to this letter as your authority. Advise the Department of your action, giving roll numbers, etc., in order that the parts of the rolls in the possession of the Department and the Indian Office may be made to show the cancellation.

In accordance with said opinion, the enrollment of Cyrus H. Kingsbury and Lucy E. Littlepage will be allowed to stand. The patent in favor of Cyrus H. Kingsbury received with your letter of March 10, 1896, has been approved and is inclosed.

As soon as practicable you will advise the Department relative to the status of any land, whether patented, etc., that may have been selected by any person hereby stricken from the rolls or to be stricken from such rolls, and make such recommendations as to the course that should be pursued concerning such tracts as you deem proper.

A carbon copy hereof has been sent to the Indian Office.

Respectfully,

E. A. Hitchcock,

Secretary.

2 inclosures.

D.O.M.
G.V.V.
File 5-51.

D
6476

J.W.H.
J.X.H.
W.C.P.
J.F.L.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

March 1, 1909

Seal-- 17077
Office of Ind. Affairs
Rec. March 3-1909.

The Commissioner

to the Five Civilized Tribes.

Sir:

January 25, 1909, you were advised that the names of certain persons were inadvertently included in Departmental letter of January 19, 1909 (File 5-51); that such mistake was due to the fact that it was supposed they were enrolled upon schedules approved by the Department, when in fact, the only schedules upon which their names appear were disapproved, and that no action should be taken under the circumstances looking to the erasure of interlineations or notations, if any, from the disapproved schedules, in connection with their names.

The names of the persons referred to in said letter of January 25, 1909, are as follows:

Chectaws by Blood.

Roll No.

16103.

Elizabeth Allen.

16112	George A. Bungarner.
16113	Louittia Crutchfield.
16114	Everett Crutchfield.
16111	George W. Crutchfield.
16108	Ida Crutchfield.
16107	Ima Crutchfield.
16106	Louvinia Crutchfield.
16109	William Crutchfield.
921	Josephine LaFlare Long.
922	Eake LaFlare Long.
16104	David Ritter.

It now appears from the records of the Secretary's Office that there was a schedule approved May 21, 1904, by the Secretary of the Interior, and that the approval then given was cancelled by said Secretary at a later date, to-wit, June 28, 1904.

The name of Elizabeth Allen appears upon the schedule which was approved May 21, 1904, opposite the number 15551. Ida Crutchfield's name appears opposite No. 15553, while the other members of the Crutchfield family were given the numbers immediately following that assigned to her.

You are requested to cause a report to be prepared showing whether the records of your Office also show that an earlier schedule containing the names of said persons was approved May 21, 1904; also whether such approval was cancelled June 28, 1904. Please report also the reason for the attempted cancellation, and whether prior notice was given thereof.

It appears further that, in connection with the names of Elizabeth Allen and the Crutchfield family on the roll approved May 21, 1904, the names of Ardella Hickman, Ida M. Southard and Grever Randall are also to be found.

In connection with said names, it is desired that you will report what action, in your opinion, should be taken concerning the first of said persons; also whether the said Ida M. Southard and Grover Randall, respectively, are identical with the Ida M. Southard whose name appears opposite No. 15880 in the printed rolls of citizens by blood of the Choctaw Nation, and the Grover Randall whose name appears on page 8 of Departmental letter of January 19, 1909 (File 8-51), opposite No. 15928.

As appears from the above list, there were other persons besides the said Allen and Crutchfield whose names were enrolled on schedules which were finally disapproved by the Department; for example, George A. Bumgarner, Josephine Laflere Long and Jake L. Flere Long.

Please report whether the names of these persons appear upon any prior approved schedule; also why it was that the Commissioner to the Five Civilized Tribes enrolled them upon the schedule which was disapproved by the Department, showing whether the Commissioner enrolled them thereon, of his own motion, or under decision or instructions from the Department.

By comparison of the roll approved May 21, 1904, with the printed rolls of Choctaws by blood, the Department finds that the numbers appearing thereon opposite the names of said persons were subsequently assigned to other citizens of the Choctaw Nation; thereby the series of roll numbers was kept perfect, but a material portion of the rolls was evidently sacrificed upon the supposition that it had become

worthless. Inquiry arises in this connection as to whether there were other approved schedules which were subsequently disapproved and thrown aside. Accordingly, it is desired that you also cause a report to be prepared covering this feature of the matter, showing all persons embraced in similar cases, with recommendation as to what action should be taken as to them. This will necessitate a statement as to why their names were stricken or cancelled from the rolls, and whether such action was taken without prior notice.

There is still another matter concerning which the Department desires report to be made. It is observed that the words "No person enrolled at this number" are to be found not infrequently opposite consecutive numbers on the pages of the printed rolls; and you are requested to advise the Department whether such words were substituted for the names of individuals appearing on disapproved schedules, and if such is the case, whether such disapproved schedules were approved at any time by the Department; also whether favorable decisions were ever rendered by the Department as to such persons prior to their enrollment upon such disapproved schedules.

For the sake of expedition, a partial report should be rendered at once concerning the said Elizabeth Allen and the various members of the Cratchfield family named above. The other matters referred to herein can be disposed of by subsequent reports.

Very respectfully,

James H. Wilson,

Assistant Secretary.

Through the
Indian Office.

Call on me at my home
letter to me at my home
of the 1st of the month
persons of the 1st of the month
included in the list of the
of the 1st of the month
of the 1st of the month

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DEPARTMENT OF THE INTERIOR
OFFICE OF INDIAN AFFAIRS

WASHINGTON, D.C., March 4, 00
Respectfully referred to the Commissioner
to the Five Civilized Tribes, for appropriate
action.

John Francis, Jr.
Acting Chief Land Division.

1 Letter
dated Feb. 1-00.

D 301-1909

Muskogee, Oklahoma, April 14, 1909.

Subject:

Reporting on Departmental
letter of March 2, 1909,
as to case of Mattie Shack-
ley, et al. analogous to case
of Minerva F. Swadley, et al.

The Honorable,

The Secretary of the Interior,

Sir:

Receipt is hereby acknowledged of Departmental letter of March 2, 1909 (File 5-51) asking for reports on certain Choctaw cases analogous to the case of Minerva F. Swadley, et al. and directing that the report be made in the form of answers to questions one to five inclusive in Departmental communication of February 25, 1909, relative to Mattie L. Armstrong, and that instead of question six the report should state whether any attempt was made, directly or indirectly, to give notice of the rescinding of Departmental decision favorable to the applicants.

Reference is also made to Departmental letter of March 1, 1909 (File 5-51) asking for reports on the cases of all persons whose names appear on schedules of Choctaw and Chickasaw which were disapproved by the Department.

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I have the honor to state that the case of Mattie Shockley, et al. (Loula West case) is one of the cases included in both Departmental letters above referred to, and to report therein as follows:

It appears from the records of this office that on September 9, 1896, in the case entitled F. K. West, et al. versus the Choctaw Nation, 1896 Choctaw Citizenship Case Number 955, original application was made to the Commission to the Five Civilized Tribes under the provisions of the Act of Congress approved June 10, 1896 (29 Stat., 321) for admission of the applicants, Mattie Shockley (as Mattie L. Shockley), Felix K. West (as F. K. West), Ava Shockley, Callie Shockley and Elzora Shockley as citizens by intermarriage of the Choctaw Nation, and John R. Shockley (as Eddie Shockley), Lula West, Roy West, Ephriam H. Shockley, Mattie Shockley, Leverett Shockley, Charles L. Shockley, Albert Shockley, Lenora Parker (as Nora Parker), Albert R. Shockley (as Albert Shockley) and Ethel Shockley as citizens by blood of the Choctaw Nation; that on December 5, 1896, the Commission admitted the above applicants as citizens of the Choctaw Nation.

From this decision an appeal was taken by the Choctaw Nation to the United States Court for the Central District of Indian Territory, which court, in case Number 226 on the Citizenship Docket, affirmed the decision of the Commission admit-

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ting these applicants to citizenship in the Choctaw Nation.

On December 17, 1902, the Choctaw and Chickasaw Citizenship Court, created under the provisions of the Act of Congress approved July 1, 1902 (32 Stat., 641) "set aside, annulled, vacated and held for naught" the aforesaid judgment of the United States Court for the Central District of the Indian Territory. Thereafter the record in this case was certified to the Choctaw and Chickasaw Citizenship Court for a trial de novo, and this court, on March 21, 1904, in the case of F. K. West, et al. versus the Choctaw and Chickasaw Nations, Number 42 on the South McAlester Docket of said court, ordered, adjudged and decreed that all these applicants be denied and declared not citizens of the Choctaw Nation, and not entitled to enrollment as such citizens, or to any rights whatever flowing therefrom.

May 27, 1904, orders were entered of record by the Commission to the Five Civilized Tribes, dismissing the applications for the enrollment of Corine West, Elva May Shockley, Herman Shockley, Mamie Shockley, Trevor M. Parker, Ludie F. Parker and William Leslie Parker as citizens by blood of the Choctaw Nation for the reason that their parents had been denied enrollment by a decree of the Choctaw and Chickasaw Citizenship Court.

December 16, 1904, Lula West, one of the applicants in this case, forwarded a petition to the President, praying him

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to cause an investigation to be made of the allegations contained in said petition, and if the same were found to be true, to cause her name to be placed upon the final roll of citizens by blood of the Choctaw Nation.

This petition was on February 15, 1905 (I T D 10353-1904) forwarded by the Department to the Commission to the Five Civilized Tribes with instructions to permit the petitioner to submit such testimony in support of her claim as she might see fit and inclosed a copy of an opinion of the Assistant Attorney General for the Department of the Interior of February 10, 1905, wherein it was held that said Commission had jurisdiction to examine into the claimants' cause, and should adjudicate it upon its merits, regardless of the judgment of the Choctaw and Chickasaw Citizenship Court.

A motion for review was filed with the Department by the Attorneys for the Choctaw and Chickasaw Nations, and on December 13, 1905 (I T D 6380-1905) the Department forwarded a copy of an opinion of the Assistant Attorney General for the Department of the Interior of December 8, 1905 (I T D 3693-1905), wherein he adhered to his former opinion rendered February 10, 1905, and held that Lula West having on January 9, 1890, been admitted to citizenship in the Choctaw Nation by the Secretary of the Interior, the Commission to the Five Civilized Tribes had no jurisdiction under the Act of Congress of

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June 10, 1896, to pass upon her rights, and the United States Court for the Central District of Indian Territory, and the Choctaw and Chickasaw Citizenship Court on appeal were also without jurisdiction. Copies of this opinion were forwarded the applicant, Lula West, and her attorney of record on December 23, 1905.

Under the regulations adopted by the Commissioner to the Five Civilized Tribes January 2, 1906, there was filed on January 22, 1906, by Thomas Norman, of Ardmore, Indian Territory, attorney for the petitioners, a petition verified by Lula West, and submitted on behalf of Lula West, F. K. West, Roy West, Marie West, Corine West, Elzora Shockley, Ethel Jones, nee Shockley, Charles L. Shockley, Callie Shockley, Albert Shockley, Herman Shockley, Mamie Shockley, Herbert H. Shockley, E. E. Shockley, Ava Shockley, Mattie Shockley, Leverett Shockley, Elva May Shockley, Flossie Shockley, Pauline Daniel, nee Shockley, Albert Shockley, Mattie L. Osburn, nee Shockley, Edie Shockley, Lenora Parker, nee Shockley, Treva Myrtle Barker, Lodie Franklin Parker, William Leslie Parker, and Albert H. Shockley, praying that they be enrolled as citizens of the Choctaw Nation.

All parties in interest were notified and a hearing was had in this case March 5, 1906.

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It appears from the record in this case that on July 15, 1889, on appeal from the adverse action of the Choctaw National Council, the United States Indian Agent, Leo E. Bennett, rendered a decision admitting John Shockley, now deceased, Mattie L. Shockley, William Shockley, now deceased, Elzora Shockley, Charles L. Shockley, Ephriam Shockley, Lula Shockley and Robert Shockley to Choctaw citizenship, said decision being on January 9, 1890, approved by the Secretary of the Interior.

The applicants contended that no such person as Robert Shockley existed; that this was an error and should have been Albert Shockley, now deceased, a son of John Shockley, the principal petitioner before the Indian Agent.

Upon an examination of the tribal rolls of the Choctaw Nation in the possession of this office, the names of John E. Shockley, Lula West, Roy West, Ephriam E. Shockley, Mattie Shockley, Charles L. Shockley and Albert Shockley are identified upon the 1893 Leased District Payment Roll of the Choctaw Nation, Chickasaw District, Numbers 501, 581, 582, 498, 499, 497 and 500 respectively.

March 19, 1906, the Commissioner to the Five Civilized Tribes rendered an opinion which rescinded the orders of the Commission to the Five Civilized Tribes of May 27, 1904, dismissing the applications for the enrollment of Corina West, Elva May Shockley, Hurnan Shockley, Mamie Shockley, Traver E.

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Parker, Ludie F. Parker and William Leslie Parker, and, in accordance with the opinions of the Assistant Attorney General for the Department of the Interior of February 10, 1905 (I T D 16453-1904) and December 8, 1905 (I T D 3693-1905) in the case of Lula West (Loula West), held that John E. Shookley, Lula West, Roy West, Marie West, Corine West, Ephraim E. Shookley, Mattie Shookley, Leverett Shookley, Elva May Shookley, Charles L. Shookley, Albert Shookley, Herman Shookley, Marie Shookley, Albert R. Shookley and Albert P. Shookley should be enrolled as citizens by blood of the Choctaw Nation, and that Mattie Osborn, Ava Shookley, Callie Shookley and Pauline Shookley should be enrolled as citizens by intermarriage of said Nation, under the Acts of Congress approved June 28, 1898 (30 Stat., 495) and July 1, 1902 (32 Stat., 641).

The Commissioner further held that the applications made for the enrollment of Felix K. West and Elzora Shookley as citizens by intermarriage of the Choctaw Nation and the applications for the enrollment of Lenora Parker, Trevor M. Parker, Ludie F. Parker, William Leslie Parker and Ethel Shookley as citizens by blood of said nation should be denied under the provisions of the Act of Congress approved June 28, 1898.

The applicants, Placette Shookley and Herbert E. Shookley, not being the children of recognized and enrolled citizens by

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blood of the Choctaw Nation whose enrollment had been approved by the Secretary of the Interior prior to March 3, 1906, the applications for their enrollment as citizens by blood of the Choctaw Nation were dismissed without prejudice.

May 4, 1906, notice of this decision was forwarded the parties in interest by registered mail, and on the same date the original record in this case, together with the decision of March 19, 1906, was transmitted to the Department.

May 9, 1906, Thomas Norman forwarded a statement of exceptions to the decision in this case, in so far as it pertained to certain persons who were denied therein, and requested that the same be transmitted to the Secretary of the Interior, which was done May 14, 1906.

December 22, 1906 (Land 40199, 42796-1906) the Indian Office recommended that the decision of the Commissioner of March 19, 1906, be affirmed, and that, in the event the Department did affirm this decision, the Commissioner to the Five Civilized Tribes be directed to enroll the applicants, Plasse and Herbert E. Shockley, under Section two of the Act of Congress approved April 26, 1906 (34 Stat., 137). January 9, 1907 (I T D 26864-1906) the Secretary of the Interior affirmed the decision of the Commissioner to the Five Civilized Tribes of March 19, 1906, and directed that the office proceed with the adjudication of the claims of Plasse Shockley and

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Herbert E. Shockley under legislation enacted subsequent to the decision of March 19, 1906.

January 14, 1907 (I T D 25864-1906) this office was directed by the Department not to promulgate the decision of January 9, 1907 in this case and to return it at once direct to the Department as the parties in the case were not to be enrolled unless further advised by the Secretary of the Interior.

January 15, 1907 (I T D 813-1907) this office was advised, with reference to Departmental letters of January 9 and January 14, 1907, in the matter of the application for the enrollment of Mattie Shockley, et al. as citizens by blood of the Choctaw Nation; that, by direction of the President, the case would be submitted to the Attorney-General for his opinion and that no further action should be taken relative to these claimants until this office was further advised.

January 17, 1907, this office acknowledged receipt of Departmental letters of January 14, 1907 and January 15, 1907, and in conformity with the request of the Department, the communication of January 9, 1907, affirming the decision of the Commissioner to the Five Civilized Tribes of March 19, 1906, in the Choctaw enrollment case of Mattie Shockley, et al., together with the report of the Acting Commissioner of Indian

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Affairs of December 22, 1906, was returned direct to the Department.

February 23, 1907 (I T D 4864-1907) this office was directed by telegram from the Department, which was subsequently confirmed by letter of the same date, to inspect the partial rolls of citizens of the Choctaw and Chickasaw Nations to determine what persons were enrolled thereon contrary to the views expressed by the Attorney-General in his opinion of February 19, 1907. The office was further advised in said telegram that decisions of the Department, based upon opinions of the Assistant Attorney-General in favor of claimants in certain cases, among which was Loula West, et al., were reconsidered.

February 12, 1907, there were transmitted for the consideration of the Department, schedules of citizens of the Choctaw Nation, as follows:

Citizens by blood	Nos. 16160 to 16174, inclusive
Citizens by marriage	Nos. 1646 to 1649 inclusive
Minor citizens by blood	Nos. 919 to 920 inclusive

These schedules were composed of the persons who had been admitted by the Commissioner to the Five Civilized Tribes in his decision of March 19, 1906, in the case of Mattie Shockley et al. and Herbert E. Shockley and Plassie Shockley, whose names were scheduled without decisions in accordance with the provisions of the Act of Congress approved April 26, 1906.

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Inasmuch as the time within which persons could be enrolled and their enrollment approved by the Secretary of the Interior under the provisions of the Act of Congress approved April 26, 1906, was becoming very short, the schedules above described were prepared at this office without waiting for the opinion of the Attorney-General and were forwarded to the Department, in order that, if the opinion of the Attorney-General were favorable to their contention, the rights of these applicants might be protected by the Department without delay.

February 27, 1907, referring to Departmental letter of February 23, 1907, authorizing this office to cancel the enrollment of the persons included in the case of Loula West, et al. this office reported that the schedules above referred to had been transmitted to the Department on February 12, 1907, and recommended that the decision of March 19, 1906, be not approved and that the schedules containing the names of the persons included in this decision be disapproved by the Department.

February 26, 1907 (I T D 1402-1907) the Department, in view of the opinion of the Attorney-General of February 19, 1907, in the case of Loula West et al., rescinded its decision of January 9, 1907, in favor of the claimants in the case of Mattie Shookley, et al. and reversed the decision of this of-

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file of March 19, 1906, favorable to the applicants.

March 1, 1907 (I T D 5680,5684-1907) the Department advised this office that the schedules containing the names of the parties applicant in the case of Mattie Shockley, et al. (Loula West case) had been disapproved. A report of the Indian Office of February 28, 1907 (Land 15776-1907) was also transmitted.

March 16, 1907, the parties in interest in this case were advised of the action of the Department reversing the decision of the Commissioner of March 19, 1906 as to the persons admitted therein and affirming it as to the persons denied by said decision.

Inasmuch as the persons included in this case were never upon the approved rolls no certificates of allotment were issued to them. Contents were filed by them, but were dismissed after the action of the Department in denying their applications.

I have further to report that it does not appear from the records of this office that any attempt was made, directly or indirectly, to give the above named applicants notice of the proceedings looking to the rescinding of the decision of the Secretary of the Interior in their case.

Inasmuch as the record in this case is very full and complete, and it is believed that the applicants could not

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add anything thereto, this office has not forwarded to them notices as referred to in Departmental letter of March 15, 1909, relative to applications for restoration to citizenship status in the Five Civilized Tribes, and will withhold such action unless it is the wish of the Department that the same should be furnished these applicants.

However, if it is desired that the notices be forwarded, or if it is the wish of the Department that the parties applicant in cases of this character should be notified to have their attorneys submit written argument as to their contention that their case falls within the principles of the opinion of the Supreme Court in the Goldsby and Allison cases, this office will proceed to notify the applicants to this effect immediately upon receipt of advice from the Department, and will make supplemental report after their replies have been received.

Respectfully,

Commissioner.

Through the Commissioner
of Indian Affairs.

AB

7-6033

Muskogee, Oklahoma, January 8, 1910.

Mr. Albert R. Shockley,
Durwood, Oklahoma.

Sir:

Referring to the Choctaw enrollment cases of Mattie Shockley, et al. and Lulu West, et al., you are advised that on December 7, 1909, the Department held that no further action could or should be taken looking to the enrollment of the applicants therein.

Respectfully,

Acting Commissioner.

McM



Choctaw 6034

MATTIE Osborn

Decision of Commissioner enrolling
reversed by Dept.

4-19-09 Report To Dept

Transferred from 7-5238 5-20-06

Duplicate record bound See Pet. #C-16

6034

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of
Mattie Shockley, et al., as citizens of the Choctaw Nation, consol-
idating the applications of

Mattie Shockley, et al	7-5136
Lula West, et al.	7-5191
Ephriam E. Shockley, et al	7-5109
Charles L. Shockley, et al.	7-5188
Lenora Parker, et al.	7-5190
Albert R. Shockley,	7-5193
Elzora Shockley, et al.	7-5109
Pauline Shockley, et al.	7-D-51

D E C I S I O N.

It appears from the record herein that on October 4, 1898, application was made to the Commissioner to the Five Civilized Tribes for the enrollment of Mattie Shockley as a citizen by intermarriage of the Choctaw Nation, and for the enrollment of her son, John E. Shockley, as a citizen by blood of the Choctaw Nation; on September 24, 1898, application was made by Felix K. West for the enrollment of himself as a citizen by intermarriage of the Choctaw Nation, and for the enrollment of his wife, Lula West, and his three minor children, Roy, Marie, and Corine West, as citizens by blood of the Choctaw Nation; on September 22, 1898, application was made by Ephriam E. Shockley for the enrollment of himself and two minor children, Mattie and Leverett Shockley, as citizens by blood of the Choctaw Nation, and for the enrollment of his wife, Ava Shockley, as a citizen by intermarriage of the Choctaw Nation; on September 24, 1898, application was made by Charles L. Shockley for the enrollment of himself and two minor children, Albert and Hurman Shockley, as citizens by blood of the Choctaw Nation, and for the enrollment of his wife Callie Shockley, as a citizen by intermarriage of the Choctaw Nation; on September 24, 1898, application was made by Lenora Parker for the enrollment of herself and minor child, Trevor M. Parker, as citizens by blood of the Choctaw Nation; on September 24, 1898, application was made by Albert R. Shockley for the enrollment of himself as a citizen by blood of the Choctaw Nation; on September 24, 1898, application was made by Elzora Shockley, for the enrollment of herself as a citizen by intermarriage of the Choctaw Nation, and for the enrollment of her child, Ethel Shockley, as a citizen by blood of the Choctaw Nation; on September 24, 1898, application was made by Pauline Shockley for the enrollment of herself as a citizen by intermarriage of the Choctaw Nation; and for the enrollment of her son, Albert P. Shockley, as a citizen by blood of the Choctaw Nation.

On November 12, 1900, written application was made to the Commission to the Five Civilized Tribes for the enrollment of Elva May Shockley, minor child of Ephriam E. Shockley and Ava Shockley; on December 14, 1899, written application was made for the enrollment of Mamie Shockley, minor child of Charles L. Shockley and Callie Shockley; and on October 30, 1899, and April 29, 1902, written application was made for the enrollment of Lodie P. Parker and William Leellie Parker, respectively, minor children of Lenora Parker and W. E. Parker, a non-citizen white man.

It appears from the records of the Commission to the Five Civilized Tribes that on September 9, 1896, in the case entitled "F. K. West vs. Choctaw Nation" (1896 Choctaw Citizenship Docket, Case No. 955), original application was made to said Commission, under the provisions of the Act of Congress approved June 10, 1896 (29 Stats., 321), for admission to citizenship in the Choctaw Nation of the applicants, Mattie Shockley (as Mattie L. Shockley), Felix K. West (as F. K. West), Ava Shockley, Callie Shockley, and Elzora Shockley as citizens by intermarriage of the Choctaw Nation, and John E. Shockley (as Eddie Shockley), Lula West, Roy West, Ephriam E. Shockley, Mattie Shockley, Leverett Shockley, Charles L. Shockley, Albert Shockley, Lenora Parker (as Nora Parker), Albert R. Shockley (as Albert Shockley), and Ethel Shockley as citizens by blood of the Choctaw Nation; that on December 5, 1896, said Commission rendered its decision therein admitting Mattie Shockley (as Mrs. Mattie L. Shockley), Felix K. West (as F. K. West), Ava Shockley, Callie Shockley, and Elzora Shockley as citizens by intermarriage of the Choctaw Nation, and John E. Shockley (as Eddie Shockley), Lula West, Roy West, Ephriam E. Shockley, Mattie Shockley, Leverett Shockley, Charles L. Shockley, Albert Shockley, Lenora Parker (as Nora Parker), Albert R. Shockley (as Albert Shockley) and Ethel Shockley, as citizens by blood of said Nation. From this decision of the Commission, an appeal was taken by the Choctaw Nation to the United States Court for the Central District of Indian Territory, which Court in the case entitled "F. K. West vs. Choctaw Nation" (Central District Citizenship case No. 226), affirmed the decision of said Commission, admitting Mattie Shockley (as Mattie L. Shockley), Felix K. West (as F. K. West), Ava Shockley, Callie Shockley and Elzora Shockley as citizens by intermarriage of the Choctaw Nation, and John E. Shockley (as Eddie Shockley), Lula West, Roy West, Ephriam E. Shockley, Mattie Shockley, Leverett Shockley, Charles L. Shockley, Albert Shockley, Lenora Parker (as Nora Parker), Albert R. Shockley (as Albert Shockley) and Ethel Shockley, as citizens by blood of the Choctaw Nation.

It further appears from the records of said Commission that on December 17, 1902, the Choctaw and Chickasaw Citizenship Court created under the provisions of the Act of Congress approved July 1, 1902 (32 Stat. 641) "set aside, annulled, vacated and held for naught" the aforesaid judgment of the United States Court for the Central District of Indian Territory.

Thereafter, the record in the above case was certified to the Choctaw and Chickasaw Citizenship Court for a trial de novo, which Court on March 21, 1904, in the case of "F. K. West et al., vs Choctaw and Chickasaw Nations" (Choctaw-Chickasaw Citizenship Court case No. 42 South McAlester Docket), "ordered, adjudged, and decreed that the petition of the plaintiffs, F. K. West, Ava Shockley, Callie Shockley, Elzora Shockley (or Alzora Shockley), Mattie L. Shockley, (now Mattie L. Osburn), Charles L. Shockley, Ephriam E. Shockley (as Ephriam E. Shockley), Eddie Shockley, Lula West, Albert Shockley, Roy West, Marie West, Mattie Shockley, Leverett Shockley, Ethel Shockley, Nora Shockley (now Nora Parker) and Albert R. Shockley, be denied, and that they be declared not citizens of the Choctaw Nation and not entitled to enrollment as such citizens, and not entitled to any rights whatsoever flowing therefrom."

On May 27, 1904, orders were entered of record by the Commission to the Five Civilized Tribes dismissing the applications for the enrollment of Corine West, Elva May Shockley, Herman Shockley, Emma Shockley, Trevor M. Parker, Lucie V. Parker and William Leslie Parker as citizens by blood of the Choctaw Nation, for the reason that their parents through whom they claim their right to enrollment as citizens by blood of the Choctaw Nation had been denied by a decree of the Choctaw and Chickasaw Citizenship Court.

On December 16, 1904, the applicant, Lula West, forwarded a petition to the President, praying him to cause an investigation to be made of the allegations contained in said petition, and if said allegations were found to be true, to cause her name to be placed upon the final roll of citizens by blood of the Choctaw Nation.

Said petition was on February 15, 1905, (I.T.D. 10353-1904) forwarded by the Department to the Commission to the Five Civilized Tribes with instructions to permit the petitioner to submit such testimony in support of her claim as she may see fit, and enclosed a copy of an opinion of the Assistant Attorney General for the Department of the Interior of February 10, 1905 (I.T.D. 10353-1904) wherein it was held that said Commission had jurisdiction to examine into the claimants cause, and should adjudicate it upon its merits, regardless of the judgment of the Choctaw and Chickasaw Citizenship Court.

A motion for review was filed with the Department by the attorneys for the Choctaw and Chickasaw Nations, and on December 13, 1905, the Department (I.T.D. 3380-1905), forwarded a copy of an opinion of the Assistant Attorney General for the Department of the Interior of December 8, 1905 (I.T.D. 3393-1905), wherein he adhered to his former opinion rendered on February 10, 1905, and held that Lula West having on January 9, 1890, been admitted to citizenship in the Choctaw Nation by the Secretary of the Interior, the Commission to the Five Civilized Tribes had no jurisdiction under the act of June 10, 1896, to pass upon her rights, and the United States Court for the Central District of Indian Territory, and the Choctaw and Chickasaw Citizenship Court on appeal were also without jurisdiction. Copies of said opinion were forwarded the applicant Lula West, and her attorney of record on December 23, 1905.

Under the regulations adopted by the Commissioner to the Five Civilized Tribes on January 2, 1906, there was filed on January 22, 1906, by Thomas Herman, of Ardmore, Indian Territory, attorney for the petitioners, a petition verified by Lula West, and submitted on behalf of Lula West, F.K. West, Roy West, Marie West, Corine West, Elzora Shockley, Ethel Jones, (nee Shockley), Charles L. Shockley, Callie Shockley, Albert Shockley, Herman Shockley, Mamie Shockley, Herbert E. Shockley, E.E. Shockley, Ava Shockley, Mattie Shockley, Leverett Shockley, Elva May Shockley, Plasse Shockley, Pauline Daniel (nee Shockley), Albert Shockley, Mattie L. Osborn (nee Shockley), Eddie Shockley, Lenora Parker (nee Shockley), Treva Myrtle Parker, Ludia Franklin Parker, William Leslie Parker and Albert R. Shockley, praying that they be enrolled as citizens of the Choctaw Nation.

All of the above petitioners, with the exception of Herbert E. and Plasse Shockley, are identical with the applicants for whom application was made prior to December 25, 1902, for enrollment as citizens of the Choctaw Nation.

On February 8, 1906, the principal applicant petitioner, Lula West, her attorney, Thomas Herman of Ardmore, Indian Territory, and Messrs. Mansfield, McMurray & Cornish, attorneys for the Choctaw and Chickasaw Nations, of South McAlester, Indian Territory, were advised that the Commissioner to the Five Civilized Tribes would, at his office in Muskogee, Indian Territory, on Monday May 5, 1906, at four o'clock P.M. hear such testimony and receive such other evidence as might be submitted by the petitioners in support of their applications for enrollment as citizens of the Choctaw Nation and by the attorneys for the Choctaw and Chickasaw Nations.

By agreement of counsel the hearing in this case was continued from four o'clock P.M. on Monday, May 5, 1906, until seven o'clock, P.M. on the same day, at which time proceedings were had pursuant to the notices above mentioned.

It appears from the record herein that on July 16, 1899, on appeal from the adverse action of the Choctaw National Council, the United States Indian Agent, Lee E. Bennett, rendered a decision admitting John Shockley (now deceased), Mattie L. Shockley, William Shockley (now deceased), Elzora Shockley, Charles L. Shockley, Ephriam Shockley, Lula Shockley, and Robert Shockley to Choctaw Citizenship, said decision being on January 9, 1900, approved by the Secretary of the Interior. It is contended by the applicants herein that no such person as Robert Shockley ever existed; that the same was an error, and should have been Albert Shockley (now deceased), a son of John Shockley, the principal petitioner before the Indian Agent.

It further appears from the record herein that the principal applicant, Mattie Shockley, who was admitted by the Indian Agent as the wife of John Shockley, was on January 22, 1899, married to J.R. Osborn, a non-citizen white man; that John E. Shockley is a son of said Mattie Shockley and John Shockley, (now deceased), (admitted by the Indian Agent); that Lula West (admitted by the Indian Agent) is the daughter of John Shockley above mentioned, and Patina Shockley (now deceased), a non-citizen white woman; that Roy, Marie and Corine West are the children of said Lula West and Felix K. West, an applicant herein, for enrollment as a citizen by intermarriage of the Choctaw Nation; that Ephriam E. Shockley (admitted by the Indian Agent) is the son of John Shockley and Patina Shockley, above mentioned; that Mattie, Leverett and Elva May Shockley are the children of said Ephriam E. Shockley and Ava Shockley, an applicant herein for enrollment as a citizen by intermarriage of the Choctaw Nation; that Charles L. Shockley (admitted by the Indian Agent) is the son of John Shockley and Patina Shockley above mentioned; that Albert, Hurman, and Mamie Shockley are the children of said Charles L. Shockley and Callie Shockley, an applicant herein for enrollment as a citizen by intermarriage of the Choctaw Nation; that Lenora Parker, was born about the year 1876, and is the daughter of William Shockley, deceased, (admitted by the Indian Agent) and Bettie Shockley (deceased), a non-citizen white woman; that Treva M. Ludie P., and William Lealie Parker are the children of said Lenora Park and W.I. Parker, a non-citizen white man; that Albert R. Shockley is the son of William Shockley and Bettie Shockley above mentioned that the applicant Elzora Shockley, was by a decision of the Indian Agent admitted to Choctaw citizenship as the wife of William Shockley; that Ethel Shockley is the daughter of said Elzora Shockley and William Shockley, above mentioned; and that Albert P. Shockley was born in 1897 and is the son of Albert Shockley, (now deceased-who, (as Robert Shockley) was also admitted by the decision of the Indian Agent).

Upon an examination of the tribal rolls of the Choctaw Nation in the possession of this office, it appears that John E. Shockley, Lula West, Roy West, Ephriam E. Shockley, Mattie Shockley, Charles L. Shockley and Albert Shockley are identified upon the 1893 Choctaw Leased District Payment Roll, Chickasaw District, numbers 501, 501, 502, 498, 499, 497 and 500, respectively, enrolled thereon as citizens by blood of the Choctaw Nation.

It further appears from the record herein that the applicant, Felix K. West, was on August 20, 1899, under the laws of Tennessee, married to the applicant Lula West; that the applicant Ava Shockley was on July 30, 1890 lawfully married to the applicant Ephriam E. Shockley; that the applicant Callie Shockley was on December 10, 1893, lawfully married to the applicant, Charles L. Shockley; and that Pauline Shockley was on November 2, 1894, lawfully married to Albert Shockley, (now deceased), who (as Robert Shockley) was admitted to Choctaw citizenship by the decision of the Indian Agent.

It further appears from the record herein and from the records of the Commission to the Five Civilized Tribes that the applicants Felix K. West, Lenora Parker, Treva M. Parker, Ludie F. Parker, and William Leslie Parker, have never been enrolled by the Choctaw tribal authorities as members of the Choctaw tribe, or admitted to Choctaw citizenship by a duly constituted Court or committee of the Choctaw Nation, or by the United States Indian Agent, nor has the applicant, Felix K. West ever been married to the applicant Lula West, through whom he claims his intermarried rights by virtue of a license issued by the tribal authorities of the Choctaw Nation.

It further appears from the records herein that all the applicants herein, who were living at said time, with the exception of Elzora Shockley and Ethel Shockley were residents in good faith of Indian Territory on June 28, 1898.

As to the applicant Elzora Shockley, the evidence herein shows that she was born in the state of Arkansas and resided there continuously until 1886, when she removed to the Indian Territory where she resided until 1899; that thereupon she returned to the State of Arkansas, where she resided continuously until 1900; and that the applicant Ethel Shockley was born in the State of Arkansas in about the year 1891, and resided continuously therein with her mother, Elzora Shockley until 1900:

From the above it is considered that the applicants Elzora Shockley and Ethel Shockley, were not residents in good faith of Indian Territory on June 28, 1898, as provided by section 21 of the Act of Congress approved June 28, 1898 (30 Stat. 495).

It further appears from the record herein that on March 5, 1906, application was made to the Commissioner to the Five Civilized Tribes for the enrollment of Plasse Shockley and Herbert E. Shockley as citizens by blood of the Choctaw Nation. The applicant Plasse Shockley was born on April 6, 1903, and is the daughter of the applicants, Ephriam E. Shockley and Ava Shockley; and that the applicant Herbert E. Shockley was born June 15, 1903 and is the son of the applicants, Charles L. Shockley and Callie Shockley.

The Act of Congress approved March 3, 1905 (33 Stat. 1070) Provides:

"That the Commission to the Five Civilized Tribes is authorized for sixty days after the date of the approval of this Act to receive and consider applications for enrollment of children born subsequent to September twenty-five, nineteen hundred and two, and prior to March fourth, nineteen hundred and five, and who were living on said latter date, to citizens by blood of the Choctaw and Chickasaw tribes of Indians, whose enrollment has been approved by the Secretary of the Interior prior to the date of the approval of this act; and to enroll and make allotments to such children."

I am of the opinion that inasmuch as the applicants, Plasse Shockley, and Herbert E. Shockley, are not the children of recognized and enrolled citizens by blood of the Choctaw Nation, whose enrollment has been approved by the Secretary of the Interior prior to March 3, 1905, I am now without authority to receive or consider their applications for enrollment as citizens by blood of the Choctaw Nation, and that the same should be dismissed without prejudice to the applicants, and it is so ordered.

I am of the opinion that the orders of the Commission to the Five Civilized Tribes of May 27, 1904, dismissing the applications for the enrollment of Corine West, Elva May Shockley, Herman Shockley, Mamie Shockley, Treva M. Parker, Ludie F. Parker, and William Leslie Parker should be rescinded.

I am further of the opinion that in accordance with the opinions of the Assistant Attorney General for the Department of the Interior of February 10, 1905, (I.T.D. 10383-1904), and December 8, 1905 (I.T.D. 3493-1905), in the case of Lula West, that John E. Shockley, Lula West, Ray West, Marie West, Corine West, Ephraim E. Shockley, Mattie Shockley, Leverett Shockley, Elva May Shockley, Charles L. Shockley, Albert Shockley, Herman Shockley, Mamie Shockley, Albert E. Shockley and Albert P. Shockley, should be enrolled as citizens by blood of the Cheateau Nation, and that Mattie Saborn Ava Shockley, Callie Shockley, and Pauline Shockley, should be enrolled as citizens by intermarriage of said Nation, under the provisions of the Act of Congress approved June 28, 1898 (30 Stat. 495) and July 1, 1902 (32 Stat. 641), and it is so ordered.

I am further of the opinion that the applications made for the enrollment of Felix E. West and Elvera Shockley as citizens by intermarriage of the Cheateau Nation, and the applications for the

enrollment of Lenora Parker, Treva E. Parker, Lulu F. Parker, William Leslie Parker and Ethel Shockley, as citizens by blood of said Nation should be denied, under the provisions of the Act of Congress approved June 28, 1898 (30 Stat. 495), and it is so ordered.

(Signed) Tans Dixby,
Commissioner.

Muskogee, Indian Territory,
March 19, 1906.

7-5238

COPY

Muskegee, Indian Territory, May 4, 1906.

Mattie Osborn,

Hartshorne, Indian Territory.

Dear Madam:

You are hereby advised that the Commissioner to the Five Civilized Tribes on March 19, 1906, rendered his decision in the matter of the application for the enrollment of Mattie Shockley et al. as citizens of the Choctaw Nation, consolidating the applications of

Mattie Shockley, et al.,	7-5238
Lula West, et al.,	7-5191
Ephriam E. Shockley, et al.,	7-5109
Charles L. Shockley, et al.,	7-5188
Lenora Parker, et al.,	7-5190
Albert R. Shockley,	7-5193
Elisora Shockley, et al.,	7-5189
Pauline Shockley, et al.,	7-D-51.

By this decision the application of yourself for enrollment as a citizen by intermarriage, and that of your minor son, John E. Shockley, as a citizen by blood of the Choctaw Nation was granted.

Respectfully,

SIGNED *Wm. O. Beall*

Acting Commissioner.

7-5238

Muskogee, Indian Territory, May 4, 1906.

Thomas Norman,
Attorney at Law,
Ardmore, Indian Territory.

Dear Sir:

There is inclosed herewith copy of the decision of the Commissioner to the Five Civilized Tribes of March 19, 1906, in the matter of the application for the enrollment of Mattie Shockley et al. as citizens of the Choctaw Nation, consolidating the applications of

Mattie Shockley, et al.,	7-5238
Lula West, et al.,	7-5191
Ephriam E. Shockley, et al.,	7-5109
Charles L. Shockley, et al.,	7-5188
Lenora Parker, et al.,	7-5190
Albert R. Shockley,	7-5193
Elzora Shockley, et al.,	7-5189
Pauline Shockley, et al.,	7-D-51.

By this decision the applications for the enrollment of John F. Shockley, Lula West, Roy West, Marie West, Corine West, Ephriam E. Shockley, Mattie Shockley, Leverett Shockley, Elva May Shockley, Charles L. Shockley, Albert Shockley, Herman Shockley, Marie Shockley, Albert R. Shockley and Albert P. Shockley as citizens by blood, and the application for the enrollment of Mattie Osborn, Ava Shockley, Callie Shockley and Pauline Shockley as citizens by intermarriage of the Choctaw Nation are

granted.

The decision refuses the application made for the enrollment of Lenora Parker, Trevor M. Parker, Ludie P. Parker, William Leslie Parker and Ethel Shockley as citizens by blood and the application for the enrollment of Felix K. West and Elzora Shockley as citizens by intermarriage of the Choctaw Nation.

The applications for the enrollment of Plasse Shockley and Herbert E. Shockley as citizens by blood of the Choctaw Nation are dismissed without prejudice to the applicants.

The original record in the case, together with the decision of the Commissioner of March 19, 1906, has this day been transmitted to the Secretary of the Interior through the Commissioner of Indian Affairs for review.

Respectfully,

SIGNED: K. C. B. B. B.

Acting Commissioner.

7-5238

COPY.

Muskogee, Indian Territory, May 4, 1906.

J.C. Pool,
Attorney at Law,
Waco, Texas.

Dear Sir:

You are hereby advised that the Commissioner to the Five Civilized Tribes on March 19, 1906, rendered his decision in the matter of the application for the enrollment of Mattie Shockley et al. as citizens of the Choctaw Nation, consolidating the applications of

Mattie Shockley, et al.,	7-5238
Lula West, et al.,	7-5191
Ephriam E. Shockley, et al.,	7-5109
Charles L. Shockley, et al.,	7-5188
Lenora Parker, et al.,	7-5190
Albert R. Shockley,	7-5193
Elzora Shockley, et al.,	7-5189
Pauline Shockley, et al.,	7-D-51.

By this decision the applications for the enrollment of John E. Shockley, Lula West, Roy West, Marie West, Corine West, Ephriam E. Shockley, Mattie Shockley, Leverett Shockley, Elva May Shockley, Charles L. Shockley, Albert Shockley, Hurman Shockley, Mamie Shockley, Albert R. Shockley and Albert P. Shockley as citizens by blood, and the application for the enrollment of Mattie Osborn, Ava Shockley, Callie Shockley and Pauline Shockley as citizens by intermarriage of the Choctaw Nation are

J.O.P.-----2

granted.

The decision refuses the application made for the enrollment of Lenora Parker, Trevor M. Parker, Ludie F. Parker, William Leslie Parker and Ethel Shockley as citizens by blood, and the application for the enrollment of Velix E. West and Elzora Shockley as citizens by intermarriage of the Choctaw Nation.

The applications for the enrollment of Plamsee Shockley and Herbert E. Shockley as citizens by blood of the Choctaw Nation are dismissed without prejudice to the applicants.

The original record in the case, together with the decision of the Commissioner of March 19, 1906, has this day been transmitted to the Secretary of the Interior through the Commissioner of Indian Affairs for review.

Respectfully,

SIGNED *Wm. D. Healy*

Acting Commissioner.

7-5238.

COPY

Muskogee, Indian Territory, May 4, 1906.

Mansfield, McMurray & Cornish,

Attorneys for the Choctaw and Chickasaw Nations,
South McAlester, Indian Territory.

Gentlemen:

There is inclosed herewith copy of the decision of the Commissioner to the Five Civilized Tribes of March 19, 1906, in the matter of the application for the enrollment of Mattie Shockley et al. as citizens of the Choctaw Nation, consolidating the applications of

Mattie Shockley, et al.,	7-5238
Lula West, et al.,	7-5191
Ephriam E. Shockley, et al.,	7-5109
Charles L. Shockley, et al.,	7-5188
Lenora Parker, et al.,	7-5190
Albert R. Shockley,	7-5193
Elsora Shockley, et al.,	7-5189
Pauline Shockley, et al.,	7-D-51.

By this decision the applications for the enrollment of Jehn E. Shockley, Lula West, Roy West, Marie West, Corine West, Ephriam E. Shockley, Mattie Shockley, Leverett Shockley, Elva May Shockley, Charles L. Shockley, Albert Shockley, Herman Shockley, Mamie Shockley, Albert R. Shockley and Albert P. Shockley as citizens by blood, and the application for the enrollment of Mattie Osborn, Ava Shockley, Callie Shockley and Pauline Shockley as citizens by intermarriage of the Choctaw Nation are

M. Mc. & C. ---2

granted.

The decision refuses the application made for the enrollment of Lenora Parker, Trevor M. Parker, Ludie P. Parker, William Leslie Parker and Ethel Shockley as citizens by blood, and the application for the enrollment of Felix K. West and Elzora Shockley as citizens by intermarriage of the Choctaw Nation.

The applications for the enrollment of Plasse Shockley and Herbert E. Shockley as citizens by blood of the Choctaw Nation are dismissed without prejudice to the applicants.

The original record in the case, together with the decision of the Commissioner of March 19, 1906, has this day been transmitted to the Secretary of the Interior through the Commissioner of Indian Affairs for review.

Respectfully,

SIGNED _____ J. B. _____

Acting Commissioner.

7-5238

DEPT. OF THE INTERIOR
BUREAU OF LANDS

APR 28 1906

Receipt is hereby acknowledged of a copy of the testimony taken at Muskogee, Indian Territory on the 5th day of March, 1906, in the matter of the petition for the enrollment of Loula West et al. as citizens of the Choctaw Nation.

Thos. Norman

Petition of F. K. West, et al.

Before His Excellency,

The President of the United States,

Washington, D.C.

Your petitioners herein Charles L. Shookley, Ephriam Shookley, Loula West, nee Shookley, and their Mother, Mattie L. Shookley and Elzora Shookley, wife of William Shookley, deceased, respectfully state that some of them are Indians by blood and the remainder of them are white people, who have intermarried with them, and that they all live in the Indian Territory, and have lived in this Territory for over twenty years and that during all the time they have been in the Indian Territory and all time before, your petitioners claimed to be of Choctaw descent, and claimed to be entitled to all the rights, privileges and immunities incident thereto; that on the -- day of _____ these parties above upon an appeal from the Council of the Choctaw Nation to the United States Indian Agent at Muskogee, Indian Territory, were on the 15th day of July, 1889, admitted to citizenship of the Choctaw tribe of Indians in virtue of the decision rendered on that day by the Honorable Leo E. Bennett, at that time the United States Indian Agent for the Five Civilized Tribes, who by virtue of his official position and the Laws of the United States, and of the Indian Nation, had authority to pass upon their claim for citizenship and jurisdiction to entertain the appeal heretofore mentioned and to admit your petitioners to the rights of citizenship for which they were prosecuting an application.

The judgment of the Indian Agent is as follows:

Union Agency

John Shookley, et al.

vs

Choctaw Nation,

Muskogee, Indian Territory,

July 15th, 1889.

Opinion of Lee E. Bennett.

United States Indian Agent on appeal taken from decision of the Choctaw National Council.

The evidence in this case shows that in October 1886, the claimant, John Shockley, filed a petition before the general Council of the Choctaw Nation, asking that all of the rights, privileges and immunities of Choctaw citizenship be granted unto the petitioner, John Shockley and his family, to wit:- Mattie L. Shockley, his wife, and their several children, as follows:- William Shockley, age twenty, and his wife, Elzera Shockley age eighteen, Charles L. Shockley age eighteen, Ephriam Shockley age sixteen, Lula Shockley age fourteen and Albert Shockley age twelve; and that claimant based his petition upon the allegation that he, the petitioner is a Choctaw by blood, being the son of Nancy Shockley, who was a half-breed Choctaw woman who lived and died in Tennessee and that after the death of petitioners parents he went to live with his Mother's half-sister, who is a full-blood Choctaw. The evidence taken in the case before the Council consisted of a statement by Henry Wade, that "the old people", meaning the old Choctaw told affiant that Ephriam Shockley, who was the father of petitioner had married a Choctaw woman, and that the petitioner had always represented himself as a Choctaw.

Wade Hampton, a venerable and intelligent old gentleman, who is well known to me and who at the time of giving his evidence before the Council was a Senator, stated that he knew petitioner in Tennessee in the year 1859, and subsequently and that petitioner was at that time living with a woman who claimed to be Choctaw, and who talked Choctaw as well as English; that she had a mark known as "Sixtown" and she was a member of that town; that affiant heard this woman claim petitioner as her nephew, and that her general reputation was of being a Choctaw.

Clayton Shockley who has been personally known to me for

3.

several years as a man of good reputation and entitled to credit, stated that he knew petitioner for forty years; that petitioner was considered a Choctaw from childhood; that he knew petitioner's Father and Mother, and that Nancy Shockley, the Mother of petitioner was considered a Choctaw half-breed; that after the Mother's death this Aunt Huldah, a half-sister of the Mother and herself a Choctaw full-blood took charge of petitioner and raised him; that subsequently petitioner was sent off to learn a trade and thus separated from his Aunt Huldah and his brother and sister who are still living in Tennessee.

In support of his allegation the petitioner states that his mother had told him he was an Indian but did not remember if she said Choctaw; that his Aunt Huldah told him they were Choctaws; that Wade Hampton often came to their house and told him that he was a Choctaw; that his Aunt spoke of her kin folk being in Mississippi and that she belonged to the "Sixtown Clan".

James Good stated that he had known the Shockley family ever since he could remember and they were always called Choctaws; that the father of petitioner was a white man, but his mother was a half-breed Choctaw; that they were Indians, were called Indians and looked like Indians; that he is forty-five years of age.

By resolution approved October 29th the Choctaw Council rejected the prayer of petitioner and this review is upon his appeal from their decision.

In a communication of November 5th to this Office, the petitioner states that upon the advice of Captain J. B. Stanley, the present National Agent of the Choctaw Nation, he returned home from Council and bought an improvement near Stringtown; that he came to the Choctaw Nation because Wade Hampton, to whom I have previously referred as a Senator and prominent Choctaw wrote him that he would have no trouble in establishing his right.

4.

On November 28th National Secretary Tell states officially that he reduced the statements of Clayton Shockley and Mat Good to writing and that he is satisfied from their answers that they were thoroughly acquainted with the facts as stated; and that they were honest in their opinions touching the same.

On November 30th Honorable B. F. Smallwood, principal Chief of the Choctaw Nation, wrote this office that the evidence presented appeared to his mind to be worthy of consideration and he asked that the claims of said Shockley be examined for he believed the same to be a bona-fide citizen of our Nation.

The evidence in this case is all ex parte but has been taken before the Choctaw Authorities and the Attorney of that Nation, Mr. Telle, under date of March 28th 1889, submits the case upon the merit of the evidence above summarized.

In my opinion the petitioner had made out a strong case with presumptive evidence which is rather persuasive than convincing. All the evidence both pro and con that can be obtained is herewith submitted. The Choctaw Nation by its Chief Magistrate submits the justice of petitioner's prayer and rests the case upon the evidence as presented.

In such a case as this it appears to me that there could only be one conclusion. For all the evidence is favorable to the petitioner and not only so but the Chief Magistrate of the Choctaw Nation frankly admits that it is his belief that the petitioner is a bona-fide citizen of the Choctaw Nation. In answer the Choctaw Nation rest entirely upon the resolutions of the Choctaw Council, denying petitioner's prayer. A denial is not evidence against petitioner's claim.

Having fully considered the premises it is my opinion that the petitioner, John Shockley, is a Choctaw Indian through his Mother, Nancy Shockley, and as such is entitled to citizenship in the Choctaw Nation.

5.

I therefore decide this appeal in favor of the petitioner.

(signed) Leo E. Bennett,

U. S. Indian Agent.

Your petitioner further states that the said Leo E. Bennett as United States Indian Agent, as aforesaid, did on the 26th day of November 1889, transmit all the papers in said cause together with the judgment, which he had rendered therein after due notice had been given to the Choctaw Authorities, to the Secretary of the Interior and the Commissioner of Indian affairs, that on January 8th, 1890, Commissioner of Indian affairs took under consideration the approval or rejection of the action of the United States Indian Agent for the Five Civilized Tribes admitting your petitioners to citizenship, and on said day last mentioned the Honorable T. J. Morgan, then Commissioner of Indian affairs made a recommendation to the Secretary of the Interior that the judgment of the United States Indian Agent for the Five Civilized Tribes in admitting these people to citizenship be approved; that on January 9th, 1890, Honorable George Chandler, then acting Secretary of the Interior passing upon the judgment of said United States Indian Agent for the Five Civilized Tribes, and upon the recommendation of the Commissioner of Indian affairs, approved of the judgment of the said Indian Agent and render judgment in accordance with the recommendation of the Commissioner of Indian Affairs. All the various matters herein above mentioned and set forth are of record in the various departments of the Secretary of the Interior, and are accessible and can be had.

Subsequently Congress passed an act on the 10th day of June 1896, directing the Commission to the Five Civilized Tribes, commonly known as the Dawes Commission to prepare and forward to the Secretary of the Interior correct rolls of all of the members of the various Five Civilized Tribes. Your petitioners applied to this Commission for enrollment. The act of June 10th 1896, provided,

6.

as follows: "The rolls of citizenship of the various tribes as now existing are hereby confirmed", and the acts also provided that the parties whose claims for citizenship are disputed or denied or not acted upon might have their rights determined by the said Commission, but with this later provision your petitioners have no concern, because at that time the rights of your petitioners herein had been determined, and they were upon the rolls of citizenship of the Chectaw Nation and had theretofore. On the ____ day of _____, 1893, drawn their pro rata part of the leased district money going to the members of the Five Civilized Tribes, a record of this will be found in the possession of the said Dawes Commission.

As stated above your petitioners applied to the Dawes Commission, aforesaid, to be enrolled under that provision of the act of June 10th, 1896, alluded to above, providing, "That the rolls of citizenship of the several tribes as now existing are now confirmed." On the 7th day of June 1897, Congress of the United States passed an act defining what the said words "Rolls of Citizenship" meaning in the act of 1896 said provision is as follows "that the words "rolls of citizenship" as used in act of June 10th 1896, making provision for current and contingent expenses of the Indian Department for fulfilling treaty stipulations, that the various tribes for the fiscal year ending June 30th, 1897, should be construed to mean the last authenticated rolls of each tribe which have been approved by the Council of the Nation and all descendants as have been entered on such rolls and such additional names and their descendants as have been added either by the Council of such Nation, the duly authorized Court thereof or the Commission under the act of June 10th, 1896.

As stated above at the time the later act was passed

8.

your petitioners were then upon the authenticated rolls of the Chectaw Nation, a record of which is in the possession of the so called Dawes Commission, and in virtue of the decision of the United States Indian Agent admitted them to citizenship and the approval of their judgment forwarded by the Secretary of the Interior, as well as under the above acts of Congress, they were entitled to be placed upon the rolls of citizenship of the Chectaw Nation. This was done and your petitioners were duly enrolled. The Chectaw Nation, however, were aggrieved by the action of the Dawes Commission and although they had no right or authority to do so, and in open violation of the law appealed from the decision of the Dawes Commission to the United States Court for the Central District of the Indian Territory, which said Court your petitioners allege had no jurisdiction of this cause whatever;

Subsequently on the ___ day of _____ the Court disregarding their want of jurisdiction entered judgment, however, approving of the action of the Dawes Commission and admitted again and anew your petitioners to all the rights, privileges and immunities of the citizens of the Chectaw Tribe of Indians, which action of said Court however added nothing of the rights which they were already possessed of as the rights of your petitioners were confirmed by the acts of Congress heretofore alluded to;

Subsequently the Congress of the United States under Section 31, 32 and 33 of the act approved on the 1st day of July 1902, created a Court known as the Chectaw-Chickasaw Citizenship Court. This Court proceeding under the authority granted it by this act of Congress annulled all of the judgments heretofore rendered by the United States Courts in the Indian Territory, including your petitioners' judgment, whereupon your petitioners after the cause had been transferred to the Chectaw-Chickasaw Citizenship Court filed a written motion to have their cause dismissed, still

alleging and asserting that the Courts had no jurisdiction over them as their rights had been fixed by the judgment of the United States Indian Agent, which judgment had been confirmed by the said decision of the Secretary of the Interior, and their names had been duly and legally placed upon the authenticated rolls of citizenship of the Choctaw Nation, and further that Congress had confirmed that roll, which confirmation of the roll by the Congress of the United States above alluded to carried with it an absolute right for your petitioners enrollment and the absolute duty upon the part of the Dawes Commission to make the enrollment of them. This Choctaw-Chickasaw Citizenship Court absolutely ignored your petitioners' motion, whereupon your petitioners declined and refused to submit their cause to that Court, this motion will be found with the records of this cause now in the hands of the said Choctaw-Chickasaw Citizenship Court. Your petitioners allege and charge that the three members of this Court were violently prejudiced against your petitioners, and that one of them long before he had tried any of the cases coming before him had stated to various parties that he intended to deny rights of citizenship to as many as he possibly could, and when the motion was made to have your petitioners case dismissed in this Court one of the Judges before the public and from his judicial seat in the Court Room, in an angry and contentious voice declared that your petitioners should never leave that Court until a decision had been rendered denying them of the rights of citizenship, and your petitioners charge that they grossly and wantonly trampled upon the rights of your petitioners, yet in utter disregard of all this the said Choctaw-Chickasaw Citizenship Court falsified its judgment and entered a judgment to the effect that your petitioners had submitted the cause to them and further denying all rights of citizenship to your petitioners;

Subsequently your petitioners made application of the

10.

Commission to the Five Civilized Tribes to be enrolled as citizens of the Choctaw Nation in virtue of the aforesaid judgment of the Secretary of the Interior, and under the acts of Congress heretofore alluded to confirming the rolls of citizenship upon which the cause of your petitioners is to be found. The justness of your petitioners request was admitted by the said Dawes Commission, and they admit that the rights of your petitioners were fixed and vested by the said acts of Congress and the Secretary of the Interior and that your petitioners ought to be enrolled, but claimed that the Honorable Secretary of the Interior had issued an order, which as interpreted by the said Dawes Commission preventing them from enrolling your petitioners upon the ground that the adverse decision had been made to their claim by the aforesaid, Choctaw-Chickasaw Citizenship Court, whose judgment your petitioners then allege as they now allege was rendered without right or authority, and in open defiance of the law for the purpose of preventing your petitioners' enrollment by the said Dawes Commission, which allegation your petitioners beg to submit is true and correct.

Now your petitioners in conclusion allege that they are humble citizens of the Choctaw Nation and are looking to the Great Government of the United States, and especially to your Honorable Self to protect them in their rights and defend them against the wrongs and injustice;

Wherefore they respectfully pray your Excellency for an order directed to the Honorable Secretary of the Interior, requesting him to investigate your petitioners allegations herein made, and if found to be true place them upon the final rolls of the Choctaw Nation and that they be permitted to share in the share in the distribution of the tribal property, which is now being allotted

11.

is severally to those whose names appear upon said final rolls.

Yours Truly, J. S. Hullett

Subscribed and sworn to before me this the 14th day of Dec, A.D.
1904.

J. S. Hullett

Notary Public.

(SEAL)

DEPARTMENT OF THE INTERIOR

Received

DEC 21 1904.

Enc. No. 1 of No. 10353
Indian Territory Division.

DEPARTMENT OF THE INTERIOR,

FEB 10, 1905.

Returned with No. 1484
Inclosure 1 Ind. Terr. Div.

(COPY)

The Choctaw Nation.

vs.

J.E.Shockley, et als.

Before the U.S.Ind. Agt.

Union Agency, I.T.

March 26, 1889.

J. E. Shockley, the claimant in this case, bases his claim on the ground of being a lineal descendant of the Choctaw tribe of Indians.

This claim is supported by the testimony of witnesses whose statements you will herein find. The case is hereby submitted for your action -- on the merits of the evidence.

Respt.

A. Telle,

Atty. for the Choctaw Nation

In appealed citizenship cases

(COPY).

Union Agency, Muscogee, I.T.,

March 26, 1889.

In the matter of

John E. Shockley

vs.

Disputed citizenship

Choctaw Nation.

Before the United States Indian Agent.

The claimant in the above styled cause by his attorney
confidently submits said case on its merits.

J. S. Standley,

Atty. for claimant.

(COPY).

Union Agency

Muskogee, Ind. Ter., July 15, 1889.

J O H N S H O C K L E Y

vs.

C H O C T A W N A T I O N .

OPINION OF LEO E. BENNETT, UNITED STATES INDIAN AGENT, ON
APPEAL TAKEN FROM DECISION OF THE CHOCTAW NATIONAL COUNCIL.

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The evidence in this case shows that in October, 1888, the claimant, John Shockley, filed a petition before the General Council of the Choctaw Nation, asking that all the rights, privileges and immunities of Choctaw citizenship be granted unto the petitioner, John Shockley, and his family, to wit: Mattie L. Shockley, his wife, and their several children as follows: William Shockley age 20 and his wife Elzora Shockley age 18, Charles L. Shockley age 18, Ephraim Shockley age 16, Lula Shockley age 14 and Robert Shockley age 12; and that claimant based his petition upon the allegation that as, the petitioner is a Choctaw by blood, being the son of Nancy Shockley who was a half-breed Choctaw woman who lived and died in Tennessee and that after the death of petitioner's parents he went to live with his mother's half-sister, who is a fullblood Choctaw.

The evidence taken in the case before the Council consisted of a statement by Henry Wages that "the old people" meaning the old Choctaws, told affiant that Ephraim Shockley, who was the father of petitioner, had married a Choctaw woman and that the petitioner had always represented himself as a Choctaw. Wade Hampton, a venerable and intelligent old gentleman who is well known to me and who at

the time of giving his evidence before the Council was a Senator, stated that he knew petitioner in Tennessee in the year 1859 and subsequently and that petitioner was at that time living with a woman who claimed to be Choctaw and who talked Choctaw as well as English, that she had a mark known as "six town" and she was a member of that town; that affiant heard this woman claim petitioner as her nephew and that her general reputation was of being a Choctaw. Clayton Shockley who has been personally known to me for several years as a man of good repute and entitled to credit stated that he knew petitioner for forty years, that petitioner was considered a Choctaw from childhood, that he knew petitioner's father and mother and that Nancy Shockley, the mother of petitioner, was considered a Choctaw half-breed, that after the mother's death this Aunt Huldah, a half-sister of the mother and herself a Choctaw, a full blood, took charge of petitioner and raised him; that subsequently petitioner was sent off to learn a trade and thus separated from his Aunt Huldah and his brother and sister who are still living in Tennessee.

In support of his allegation the petitioner stated that his mother had told him he was an Indian but he did not remember if she said Choctaw; that his Aunt Huldah told him they were Choctaws; that Wade Hampton often came to their house and told him that he was a Choctaw, that his aunt spoke of her kin folks being in Mississippi and that she belonged to the "six town clan."

James Goad stated that he had known the Shockley family ever since he could remember and they were always called Choctaws; that the father of petitioner was a white man but the mother a half-

breed Choctaw, that they said they were Indians, were called Indians and looked like Indians, that he is fifty-five years of age.

By resolution approved October 29th, the Choctaw Council rejected the prayer of petitioner, and this review is upon his appeal from their decision.

In a communication of November 5th to this office, the petitioner states that upon the advice of Captain J.S. Stanley, the present National Agent of the Choctaw Nation, returned home from Council and bought an improvement near Stringtown. That he came to the Choctaw Nation because Wade Hampton, to whom I have previously referred as a Senator and prominent Choctaw, wrote him that he would not have any trouble in establishing his right.

On November 28th, National Secretary Telle states officially that he reduced the statements of Clayton Shockley and Mat Goad to writing and that he is satisfied from their answers that they were honest in their opinions touching the same.

On November 30th Hon. B. F. Smallwood, Principal Chief of the Choctaw Nation, wrote this office that the evidence presented appeared to his mind to be worthy of consideration and he asks that the claim of said Shickley be examined for he "believed the same to be a bona-fide citizen of our Nation."

The evidence in this case is all ex-parte but has been taken before the Choctaw authorities and the attorney of that Nation, Mr. A. Telle, under date of March 26th, 1889, submits the case upon the merit of the evidence above summarized. In my opinion the petitioner has made out a strong case with presumptive evidence which is rather persuasive than convincing. All the evidence, both pro and con that can be obtained is herewith submitted. The Choctaw Nation

by its Chief Magistrate admits the justness of petitioner's prayer and rests the case upon the evidence as presented.

In such a case as this it appears to me that there could only be one conclusion, for all the evidence is favorable to the petitioner and not only so but the Chief Magistrate of the Choctaw Nation frankly admits that it is his belief that the petitioner is a bona-fide citizen of the Choctaw Nation. In answer the Choctaw Nation rests entirely upon the Resolution of the Choctaw Council denying this petitioner's prayer. A denial is not evidence against petitioner's claims.

Having fully considered the premises it is my opinion that the petitioner, John Shockley, is a Choctaw Indian through his mother, Nancy Shockley, and as such is entitled to citizenship in the Choctaw Nation. I therefore decide this appeal in favor of the petitioner.

(Signed) Leo E. Bennett,

U. S. Indian Agent.

Refer in reply
to the following:

I
34241-1889

1 enclosure

(COPY) C.A.M.
R.V.B.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON, January 8, 1890.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to enclose, herewith, a letter of November 26, 1889, from Leo E. Bennett, Esq., Union Indian Agent at Muscogee, Indian Territory, transmitting the evidence in the case of John Shockley, and others, claimants to Choctaw citizenship, appealed from the adverse decision of the Choctaw National Council, and his findings in favor of the appellants.

Inasmuch as the claim is not contested by the Choctaw Authorities, before the Agent, it is not deemed necessary to review the evidence submitted by the claimant, which is admitted by the attorney for the Nation, to support the claim, and I have the honor to recommend that Agent Bennett's findings in the case be approved.

Very respectfully,

Your obedient servant,

T. J. Morgan,

Commissioner.

(Murchison)

(COPY).

DEPARTMENT OF THE INTERIOR.

Washington, January 9, 1890.

The Commissioner of Indian Affairs.

Sir:

I have considered the decision of U. S. Indian Agent L.E. Bennett, Union Agency, Indian Territory, in the matter of the claim of John Shockley and family, to Choctaw citizenship, which accompanied your communication of 8th instant, and in view of the fact that this claim is not contested by the Choctaw authorities, Agent Bennett's findings in favor of claimants, is, as recommended by you, approved.

The papers which accompanied your communication are herewith returned.

Very respectfully,

Geo. Chandler,

Acting Secretary.

173, Ind. Div. '90.

Nine enclosures.

D.O.M.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

J.W.H.

D-8505.

October 1909.

98069

Dec. 7, 1909.

The Commissioner
of Indian Affairs.

Sir:

The Department has considered the Choctaw enrollment cases of Mattie Shockley, et al., and Lulu West, et al., transmitted with your office letter of July 26, 1909 (Land, 29295-09), with a view to determining whether the applicants should be accorded the status of recognized citizens of the Tribe.

March 19, 1906, the Commissioner to the Five Civilized Tribes rendered a decision holding that the principal applicants, as well as the others named on the first page of your office letter, should be enrolled as citizens of the Choctaw Nation under the acts of June 28, 1898 (30 Stat., 495) and July 1, 1902 (32 Stat., 641). December 22, 1906, the Indian Office recommended that said decision be affirmed. Following this recommendation, the Department January 9, 1907, affirmed the said decision of the Commissioner to the Five Civilized Tribes.

Subsequently, the Commissioner to the Five Civilized Tribes, pursuant to his decision of March 19, 1906, forwarded schedules of citizens of the Choctaw Nation con-

Department-2.

taining the names of these applicants to the Secretary of the Interior for approval. In view, however, of the opinion of the Attorney-General of February 19, 1907, relating to the cases of Lulu West and others, the Secretary rescinded his decision of January 9, 1907, which was in favor of the claimants, and disapproved the schedules containing their names.

The Commissioner to the Five Civilized Tribes, reporting April 14, 1909, says that it does not appear from the records of his office that any attempt was made, directly or indirectly, to give the applicants notice of the proceedings looking to the rescinding of the decision of the Secretary of the Interior in their cases.

The recommendation of your office is to the effect that these applicants should be accorded the status of recognized and enrolled citizens of the Choctaw Nation. In connection with this recommendation the view is expressed that the decision of the Secretary of the Interior of January 9, 1907, affirming the decision of the Commissioner to the Five Civilized Tribes of March 19, 1906, in favor of the applicants, constituted in legal effect an enrollment of these persons. This conclusion was based upon departmental decision of August 15, 1907, in the case of Serena Bullocks et al. Your office also expressed the opinion that in view of the principles announced by the Supreme Court of the United States in its decision of November 30, 1908, in the Goldsby case (211 U. S., 249), it was not within the authority

Department-3.

of the Department to withdraw, rescind, or revoke its decision, or to take any other action to deprive these claimants of the rights acquired by them without giving them notice and affording them an opportunity to be heard.

In all material respects, these cases are similar to that of Minerva F. Swadley, in which a decision adverse to the applicant was rendered by the Department August 9, 1909.

As that decision is regarded as controlling, the Department concludes that there is no further action which can or should be taken by it in the cases of the persons referred to above.

Referring to Felix K. West, and other persons mentioned on the second page of your office letter, recommendation is made therein that no action be taken by the Department looking to their enrollment, inasmuch as it does not appear that any decision was ever rendered by it in favor of enrolling them. The Department concurs in this recommendation.

The papers transmitted by your office are returned herewith, together with other papers which were forwarded to the Department with your office letter of January 15, 1907, relating to the Shockley case.

Very respectfully,

(Signed) Frank Pierce.

First Assistant Secretary.

Enclosures.

D.O.M.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

J.W.H.

D-8505.

October 1909.

98069

Dec. 7, 1909.

The Commissioner
of Indian Affairs.

Sir:

The Department has considered the Choctaw enrollment cases of Mattie Shockley, et al., and Lulu West, et al., transmitted with your office letter of July 26, 1909 (Land, 29295-09), with a view to determining whether the applicants should be accorded the status of recognized citizens of the Tribe.

March 19, 1906, the Commissioner to the Five Civilized Tribes rendered a decision holding that the principal applicants, as well as the others named on the first page of your office letter, should be enrolled as citizens of the Choctaw Nation under the acts of June 28, 1898 (30 Stat., 495) and July 1, 1902 (32 Stat., 641). December 22, 1906, the Indian Office recommended that said decision be affirmed. Following this recommendation, the Department January 9, 1907, affirmed the said decision of the Commissioner to the Five Civilized Tribes.

Subsequently, the Commissioner to the Five Civilized Tribes, pursuant to his decision of March 19, 1906, forwarded schedules of citizens of the Choctaw Nation con-

Department-2.

taining the names of these applicants to the Secretary of the Interior for approval. In view, however, of the opinion of the Attorney-General of February 19, 1907, relating to the cases of Lulu West and others, the Secretary rescinded his decision of January 9, 1907, which was in favor of the claimants, and disapproved the schedules containing their names.

The Commissioner to the Five Civilized Tribes, reporting April 14, 1909, says that it does not appear from the records of his office that any attempt was made, directly or indirectly, to give the applicants notice of the proceedings looking to the rescinding of the decision of the Secretary of the Interior in their cases.

The recommendation of your office is to the effect that these applicants should be accorded the status of recognized and enrolled citizens of the Choctaw Nation. In connection with this recommendation the view is expressed that the decision of the Secretary of the Interior of January 9, 1907, affirming the decision of the Commissioner to the Five Civilized Tribes of March 19, 1906, in favor of the applicants, constituted in legal effect an enrollment of these persons. This conclusion was based upon departmental decision of August 15, 1907, in the case of Serena Bullocks et al. Your office also expressed the opinion that in view of the principles announced by the Supreme Court of the United States in its decision of November 30, 1908, in the Goldsby case (211 U. S., 249), it was not within the authority

Department-3.

of the Department to withdraw, rescind, or revoke its decision, or to take any other action to deprive these claimants of the rights acquired by them without giving them notice and affording them an opportunity to be heard.

In all material respects, these cases are similar to that of Minerva W. Swadley, in which a decision adverse to the applicant was rendered by the Department August 9, 1909.

As that decision is regarded as controlling, the Department concludes that there is no further action which can or should be taken by it in the cases of the persons referred to above.

Referring to Felix K. West, and other persons mentioned on the second page of your office letter, recommendation is made therein that no action be taken by the Department looking to their enrollment, inasmuch as it does not appear that any decision was ever rendered by it in favor of enrolling them. The Department concurs in this recommendation.

The papers transmitted by your office are returned herewith, together with other papers which were forwarded to the Department with your office letter of January 18, 1907, relating to the Sheakley case.

Very respectfully,

(Signed) Frank Pierce.

First Assistant Secretary.

Enclosures.

D.O.M.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

J.W.H.

D-8805.

October 1909.

98069

Dec. 7, 1909.

The Commissioner
of Indian Affairs.

Sir:

The Department has considered the Choctaw enrollment cases of Mattie Shockley, et al., and Lulu West, et al., transmitted with your office letter of July 26, 1909 (Land, 29295-09), with a view to determining whether the applicants should be accorded the status of recognized citizens of the Tribe.

March 19, 1906, the Commissioner to the Five Civilized Tribes rendered a decision holding that the principal applicants, as well as the others named on the first page of your office letter, should be enrolled as citizens of the Choctaw Nation under the acts of June 26, 1898 (30 Stat., 495) and July 1, 1902 (32 Stat., 641). December 22, 1906, the Indian Office recommended that said decision be affirmed. Following this recommendation, the Department January 9, 1907, affirmed the said decision of the Commissioner to the Five Civilized Tribes.

Subsequently, the Commissioner to the Five Civilized Tribes, pursuant to his decision of March 19, 1906, forwarded schedules of citizens of the Choctaw Nation con-

Department-2.

taining the names of these applicants to the Secretary of the Interior for approval. In view, however, of the opinion of the Attorney-General of February 19, 1907, relating to the cases of Lulu West and others, the Secretary rescinded his decision of January 9, 1907, which was in favor of the claimants, and disapproved the schedules containing their names.

The Commissioner to the Five Civilized Tribes, reporting April 14, 1909, says that it does not appear from the records of his office that any attempt was made, directly or indirectly, to give the applicants notice of the proceedings looking to the rescinding of the decision of the Secretary of the Interior in their cases.

The recommendation of your office is to the effect that these applicants should be accorded the status of recognized and enrolled citizens of the Choctaw Nation. In connection with this recommendation the view is expressed that the decision of the Secretary of the Interior of January 9, 1907, affirming the decision of the Commissioner to the Five Civilized Tribes of March 19, 1906, in favor of the applicants, constituted in legal effect an enrollment of these persons. This conclusion was based upon departmental decision of August 15, 1907, in the case of Serena Bullock et al. Your office also expressed the opinion that in view of the principles announced by the Supreme Court of the United States in its decision of November 30, 1908, in the Goldsby case (211 U. S., 249), it was not within the authority

Department-3.

of the Department to withdraw, rescind, or revoke its decision, or to take any other action to deprive these claimants of the rights acquired by them without giving them notice and affording them an opportunity to be heard.

In all material respects, these cases are similar to that of Minerva F. Swadley, in which a decision adverse to the applicant was rendered by the Department August 9, 1909.

As that decision is regarded as controlling, the Department concludes that there is no further action which can or should be taken by it in the cases of the persons referred to above.

Referring to Felix K. West, and other persons mentioned on the second page of your office letter, recommendation is made therein that no action be taken by the Department looking to their enrollment, inasmuch as it does not appear that any decision was ever rendered by it in favor of enrolling them. The Department concurs in this recommendation.

The papers transmitted by your office are returned herewith, together with other papers which were forwarded to the Department with your office letter of January 15, 1907, relating to the Shockley case.

Very respectfully,

(Signed) Frank Pierce.

First Assistant Secretary.

Enclosures.

D.O.M.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

J.V.H.

D-8505.

October 1909.

98049

Dec. 7, 1909.

The Commissioner
of Indian Affairs.

Sir:

The Department has considered the Choctaw enrollment cases of Mattie Sheakley, et al., and Lulu West, et al., transmitted with your office letter of July 26, 1909 (Land, 29295-09), with a view to determining whether the applicants should be accorded the status of recognized citizens of the Tribe.

March 19, 1906, the Commissioner to the Five Civilized Tribes rendered a decision holding that the principal applicants, as well as the others named on the first page of your office letter, should be enrolled as citizens of the Choctaw Nation under the acts of June 20, 1898 (30 Stat., 495) and July 1, 1902 (32 Stat., 641). December 22, 1906, the Indian Office recommended that said decision be affirmed. Following this recommendation, the Department January 9, 1907, affirmed the said decision of the Commissioner to the Five Civilized Tribes.

Subsequently, the Commissioner to the Five Civilized Tribes, pursuant to his decision of March 19, 1906, forwarded schedules of citizens of the Choctaw Nation con-

Department-2.

taining the names of these applicants to the Secretary of the Interior for approval. In view, however, of the opinion of the Attorney-General of February 12, 1907, relating to the cases of Lulu West and others, the Secretary rescinded his decision of January 9, 1907, which was in favor of the claimants, and disapproved the schedules containing their names.

The Commissioner to the Five Civilized Tribes, reporting April 14, 1909, says that it does not appear from the records of his office that any attempt was made, directly or indirectly, to give the applicants notice of the proceedings looking to the rescinding of the decision of the Secretary of the Interior in their cases.

The recommendation of your office is to the effect that these applicants should be accorded the status of recognized and enrolled citizens of the Choctaw Nation. In connection with this recommendation the view is expressed that the decision of the Secretary of the Interior of January 9, 1907, affirming the decision of the Commissioner to the Five Civilized Tribes of March 19, 1906, in favor of the applicants, constituted in legal effect an enrollment of these persons. This conclusion was based upon departmental decision of August 15, 1907, in the case of Serena Bullocks et al. Your office also expressed the opinion that in view of the principles announced by the Supreme Court of the United States in its decision of November 30, 1908, in the Goldsby case (211 U. S., 249), it was not within the authority

Department-3.

of the Department to withdraw, rescind, or revoke its decision, or to take any other action to deprive these claimants of the rights acquired by them without giving them notice and affording them an opportunity to be heard.

In all material respects, these cases are similar to that of Winerva T. Suddley, in which a decision adverse to the applicant was rendered by the Department August 9, 1909.

As that decision is regarded as controlling, the Department concludes that there is no further action which can or should be taken by it in the cases of the persons referred to above.

Referring to Felix K. West, and other persons mentioned on the second page of your office letter, recommendation is made therein that no action be taken by the Department looking to their enrollment, inasmuch as it does not appear that any decision was ever rendered by it in favor of enrolling them. The Department concurs in this recommendation.

The papers transmitted by your office are returned herewith, together with other papers which were forwarded to the Department with your office letter of January 15, 1907, relating to the Shackle case.

Very respectfully,

(Signed) Frank Pierce.

First Assistant Secretary.

Enclosures.

D.O.W.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

J.W.H.

D-8505.

October 1909.

98069

Dec. 7, 1909.

The Commissioner
of Indian Affairs.

Sir:

The Department has considered the Choctaw enrollment cases of Mattie Shockley, et al., and Lulu Vest, et al., transmitted with your office letter of July 26, 1909 (Land, 29295-09), with a view to determining whether the applicants should be accorded the status of recognized citizens of the Tribe.

March 19, 1906, the Commissioner to the Five Civilized Tribes rendered a decision holding that the principal applicants, as well as the others named on the first page of your office letter, should be enrolled as citizens of the Choctaw Nation under the acts of June 26, 1898 (30 Stat., 495) and July 1, 1902 (32 Stat., 841). December 22, 1906, the Indian Office recommended that said decision be affirmed. Following this recommendation, the Department January 9, 1907, affirmed the said decision of the Commissioner to the Five Civilized Tribes.

Subsequently, the Commissioner to the Five Civilized Tribes, pursuant to his decision of March 19, 1906, forwarded schedules of citizens of the Choctaw Nation con-

Department-2.

taining the names of these applicants to the Secretary of the Interior for approval. In view, however, of the opinion of the Attorney-General of February 19, 1907, relating to the cases of Lulu West and others, the Secretary rescinded his decision of January 9, 1907, which was in favor of the claimants, and disapproved the schedules containing their names.

The Commissioner to the Five Civilized Tribes, reporting April 14, 1909, says that it does not appear from the records of his office that any attempt was made, directly or indirectly, to give the applicants notice of the proceedings looking to the rescinding of the decision of the Secretary of the Interior in their cases.

The recommendation of your office is to the effect that these applicants should be accorded the status of recognized and enrolled citizens of the Choctaw Nation. In connection with this recommendation the view is expressed that the decision of the Secretary of the Interior of January 9, 1907, affirming the decision of the Commissioner to the Five Civilized Tribes of March 10, 1906, in favor of the applicants, constituted in legal effect an enrollment of these persons. This conclusion was based upon departmental decision of August 15, 1907, in the case of Serena Bullock et al. Your office also expressed the opinion that in view of the principles announced by the Supreme Court of the United States in its decision of November 30, 1906, in the Goldsby case (211 U. S., 249), it was not within the authority

Department-3.

of the Department to withdraw, rescind, or revoke its decision, or to take any other action to deprive these claimants of the rights acquired by them without giving them notice and affording them an opportunity to be heard.

In all material respects, these cases are similar to that of Minerva T. Swadley, in which a decision adverse to the applicant was rendered by the Department August 9, 1909.

As that decision is regarded as controlling, the Department concludes that there is no further action which can or should be taken by it in the cases of the persons referred to above.

Referring to Felix K. West, and other persons mentioned on the second page of your office letter, recommendation is made therein that no action be taken by the Department looking to their enrollment, inasmuch as it does not appear that any decision was ever rendered by it in favor of enrolling them. The Department concurs in this recommendation.

The papers transmitted by your office are returned herewith, together with other papers which were forwarded to the Department with your office letter of January 16, 1907, relating to the Housley case.

Very respectfully,

(Signed) Frank Pierce,

First Assistant Secretary.

Enclosures.

D.O.M.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

J.V.H.

D-8505.

October 1909.

98048

Dec. 7, 1909.

The Commissioner
of Indian Affairs.

Sir:

The Department has considered the Choctaw enrollment cases of Mattie Shookley, et al., and Lulu West, et al., transmitted with your office letter of July 26, 1909 (Land, 29295-09), with a view to determining whether the applicants should be accorded the status of recognized citizens of the Tribe.

March 19, 1906, the Commissioner to the Five Civilized Tribes rendered a decision holding that the principal applicants, as well as the others named on the first page of your office letter, should be enrolled as citizens of the Choctaw Nation under the acts of June 26, 1898 (30 Stat., 496) and July 1, 1902 (32 Stat., 641). December 22, 1906, the Indian Office recommended that said decision be affirmed. Following this recommendation, the Department January 9, 1907, affirmed the said decision of the Commissioner to the Five Civilized Tribes.

Subsequently, the Commissioner to the Five Civilized Tribes, pursuant to his decision of March 19, 1906, forwarded schedules of citizens of the Choctaw Nation con-

Department-2.

taining the names of these applicants to the Secretary of the Interior for approval. In view, however, of the opinion of the Attorney-General of February 19, 1907, relating to the cases of Lulu West and others, the Secretary rescinded his decision of January 9, 1907, which was in favor of the claimants, and disapproved the schedules containing their names.

The Commissioner to the Five Civilized Tribes, reporting April 14, 1909, says that it does not appear from the records of his office that any attempt was made, directly or indirectly, to give the applicants notice of the proceedings looking to the rescinding of the decision of the Secretary of the Interior in their cases.

The recommendation of your office is to the effect that these applicants should be accorded the status of recognized and enrolled citizens of the Choctaw Nation. In connection with this recommendation the view is expressed that the decision of the Secretary of the Interior of January 9, 1907, affirming the decision of the Commissioner to the Five Civilized Tribes of March 19, 1906, in favor of the applicants, constituted in legal effect an enrollment of these persons. This conclusion was based upon departmental decision of August 15, 1907, in the case of Serena Bullock et al. Your office also expressed the opinion that in view of the principles announced by the Supreme Court of the United States in its decision of November 30, 1905, in the Goldsby case (211 U. S., 249), it was not within the authority

Department-1.

of the Department to withdraw, rescind, or revoke its decision, or to take any other action to deprive these claimants of the rights acquired by them without giving them notice and affording them an opportunity to be heard.

In all material respects, these cases are similar to that of Winerva F. Steadley, in which a decision adverse to the applicant was rendered by the Department August 9, 1907.

As that decision is regarded as controlling, the Department concludes that there is no further action which can or should be taken by it in the cases of the persons referred to above.

Referring to Felix K. West, and other persons mentioned on the second page of your office letter, recommendation is made therein that no action be taken by the Department looking to their enrollment, inasmuch as it does not appear that any decision was ever rendered by it in favor of enrolling them. The Department concurs in this recommendation.

The papers transmitted by your office are returned herewith, together with other papers which were forwarded to the Department with your office letter of January 18, 1907, relating to the Shackley case.

Very respectfully,

(Signed) Frank Pierce.

First Assistant Secretary.

Enclosures.

D.C.M.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

J.V.H.

P-8808.

October 1907.

96049

Dec. 7, 1907.

The Commissioner
of Indian Affairs.

Sir:

The Department has considered the Chectaw enrollment cases of Mattie Sheenley, et al., and Lula West, et al., transmitted with your office letter of July 26, 1907 (Land, 28295-00), with a view to determining whether the applicants should be accorded the status of recognized citizens of the Tribe.

March 19, 1906, the Commissioner to the Five Civilized Tribes rendered a decision holding that the principal applicants, as well as the others named on the first page of your office letter, should be enrolled as citizens of the Chectaw Nation under the acts of June 30, 1898 (30 Stat., 495) and July 1, 1902 (32 Stat., 641). December 22, 1906, the Indian Office recommended that said decision be affirmed. Following this recommendation, the Department January 9, 1907, affirms the said decision of the Commissioner to the Five Civilized Tribes.

Subsequently, the Commissioner to the Five Civilized Tribes, pursuant to his decision of March 19, 1906, forwarded schedules of citizens of the Chectaw Nation and

Department-2.

taining the names of these applicants to the Secretary of the Interior for approval. In view, however, of the opinion of the Attorney-General of February 12, 1907, relating to the cases of Wulu West and others, the Secretary rescinded his decision of January 9, 1907, which was in favor of the claimants, and disapproved the schedules containing their names.

The Commissioner to the Five Civilized Tribes, reporting April 14, 1909, says that it does not appear from the records of his office that any attempt was made, directly or indirectly, to give the applicants notice of the proceedings looking to the rescinding of the decision of the Secretary of the Interior in their cases.

The recommendation of your office is to the effect that these applicants should be accorded the status of recognized and enrolled citizens of the Choctaw Nation. In connection with this recommendation the view is expressed that the decision of the Secretary of the Interior of January 9, 1907, affirming the decision of the Commissioner to the Five Civilized Tribes of March 19, 1906, in favor of the applicants, constituted in legal effect an enrollment of these persons. This conclusion was based upon departmental decision of August 15, 1907, in the case of Serepa Bullocks et al. Your office also expressed the opinion that in view of the principles announced by the Supreme Court of the United States in its decision of November 30, 1906, in the Seldaby case (211 U. S., 242), it was not within the authority

Department-3.

of the Department to withdraw, rescind, or revoke its decision, or to take any other action to deprive these claimants of the rights acquired by them without giving them notice and affording them an opportunity to be heard.

In all material respects, these cases are similar to that of Minerva V. Smedley, in which a decision adverse to the applicant was rendered by the Department August 9, 1909.

As that decision is regarded as controlling, the Department concludes that there is no further action which can or should be taken by it in the cases of the persons referred to above.

Referring to Felix K. West, and other persons mentioned on the second page of your office letter, recommendation is made therein that no action be taken by the Department looking to their enrollment, inasmuch as it does not appear that any decision was ever rendered by it in favor of enrolling them. The Department concurs in this recommendation.

The papers transmitted by your office are returned herewith, together with other papers which were forwarded to the Department with your office letter of January 15, 1907, relating to the Shockle case.

Very respectfully,

(signed) Frank Pierce.

First Assistant Secretary.

Enclosures.

D.C.W.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

J.W.H.

D-8505.

October 1909.

95049

Dec. 7, 1909.

The Commissioner
of Indian Affairs.

Sir:

The Department has considered the Choctaw enrollment cases of Hattie Sheenley, et al., and Lulu West, et al., transmitted with your office letter of July 26, 1909 (Land, 29295-09), with a view to determining whether the applicants should be accorded the status of recognized citizens of the Tribe.

March 19, 1906, the Commissioner to the Five Civilized Tribes rendered a decision holding that the principal applicants, as well as the others named on the first page of your office letter, should be enrolled as citizens of the Choctaw Nation under the acts of June 26, 1896 (30 Stat., 495) and July 1, 1902 (32 Stat., 641). December 22, 1906, the Indian Office recommended that said decision be affirmed. Following this recommendation, the Department January 9, 1907, affirmed the said decision of the Commissioner to the Five Civilized Tribes.

Subsequently, the Commissioner to the Five Civilized Tribes, pursuant to his decision of March 19, 1906, forwarded schedule of citizens of the Choctaw Nation con-

Department-2.

taining the names of these applicants to the Secretary of the Interior for approval. In view, however, of the opinion of the Attorney-General of February 19, 1907, relating to the cases of Lulu West and others, the Secretary rescinded his decision of January 9, 1907, which was in favor of the claimants, and disapproved the schedules containing their names.

The Commissioner to the Five Civilized Tribes, reporting April 14, 1907, says that it does not appear from the records of his office that any attempt was made, directly or indirectly, to give the applicants notice of the proceedings looking to the rescinding of the decision of the Secretary of the Interior in their cases.

The recommendation of your office is to the effect that these applicants should be accorded the status of recognized and enrolled citizens of the Choctaw Nation. In connection with this recommendation the view is expressed that the decision of the Secretary of the Interior of January 9, 1907, affirming the decision of the Commissioner to the Five Civilized Tribes of March 19, 1906, in favor of the applicants, constituted in legal effect an enrollment of these persons. This conclusion was based upon departmental decision of August 15, 1907, in the case of Terena Bullocks et al. Your office also expressed the opinion that in view of the principles announced by the Supreme Court of the United States in its decision of November 30, 1906, in the Calday case (211 U. S., 246), it was not within the authority

Department-5.

of the Department to withdraw, rescind, or revoke its decision, or to take any other action to deprive these claimants of the rights acquired by them without giving them notice and affording them an opportunity to be heard.

In all material respects, these cases are similar to that of Winerva T. Readley, in which a decision adverse to the applicant was rendered by the Department August 9, 1909.

As that decision is regarded as controlling, the Department concludes that there is no further action which can or should be taken by it in the cases of the persons referred to above.

Referring to Felix K. West, and other persons mentioned on the second page of your office letter, recommendation is made therein that no action be taken by the Department looking to their enrollment, inasmuch as it does not appear that any decision was ever rendered by it in favor of enrolling them. The Department concurs in this recommendation.

The papers transmitted by your office are returned herewith, together with other papers which were forwarded to the Department with your office letter of January 13, 1907, relating to the Shockley case.

Very respectfully,

(Signed) Frank Pierce.

First Assistant Secretary.

Enclosures.

P.O.M.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

J.W.H.

D-2405.

October 1909.

98069

Dec. 7, 1909.

The Commissioner
of Indian Affairs.

Sir:

The Department has considered the Chectaw enrollment cases of Mattie Shockley, et al., and Ella West, et al., transmitted with your office letter of July 26, 1908 (Land, 20228-09), with a view to determining whether the applicants should be accorded the status of recognized citizens of the Tribe.

March 19, 1906, the Commissioner to the Five Civilized Tribes rendered a decision holding that the principal applicants, as well as the others named on the first page of your office letter, should be enrolled as citizens of the Chectaw Nation under the acts of June 20, 1896 (30 Stat., 498) and July 1, 1902 (32 Stat., 641). December 22, 1906, the Indian Office recommended that said decision be affirmed. Following this recommendation, the Department January 9, 1907, affirmed the said decision of the Commissioner to the Five Civilized Tribes.

Subsequently, the Commissioner to the Five Civilized Tribes, pursuant to his decision of March 19, 1906, forwarded schedules of citizens of the Chectaw Nation con-

Department-2.

taining the names of these applicants to the Secretary of the Interior for approval. In view, however, of the opinion of the Attorney-General of February 19, 1907, relating to the cases of Lulu West and others, the Secretary rescinded his decision of January 9, 1907, which was in favor of the claimants, and disapproved the schedules containing their names.

The Commissioner to the Five Civilized Tribes, reporting April 14, 1909, says that it does not appear from the records of his office that any attempt was made, directly or indirectly, to give the applicants notice of the proceedings looking to the rescinding of the decision of the Secretary of the Interior in their cases.

The recommendation of your office is to the effect that these applicants should be accorded the status of recognized and enrolled citizens of the Choctaw Nation. In connection with this recommendation the view is expressed that the decision of the Secretary of the Interior of January 9, 1907, affirming the decision of the Commissioner to the Five Civilized Tribes of March 19, 1906, in favor of the applicants, constituted in legal effect an enrollment of these persons. This conclusion was based upon departmental decision of August 15, 1907, in the case of Berena Bullocks et al. Your office also expressed the opinion that in view of the principles announced by the Supreme Court of the United States in its decision of November 30, 1908, in the Selasby case (211 U. S., 269), it was not within the authority

Department-3.

of the Department to withdraw, rescind, or revoke its decision, or to take any other action to deprive these claimants of the rights acquired by them without giving them notice and affording them an opportunity to be heard.

In all material respects, these cases are similar to that of Minerva T. Shadley, in which a decision adverse to the applicant was rendered by the Department August 9, 1909.

As that decision is regarded as controlling, the Department concludes that there is no further action which can or should be taken by it in the cases of the persons referred to above.

Referring to Felix K. West, and other persons mentioned on the second page of your office letter, recommendation is made therein that no action be taken by the Department looking to their enrollment, inasmuch as it does not appear that an decision was ever rendered by it in favor of enrolling them. The Department concurs in this recommendation.

The papers transmitted by your office are returned herewith, together with other papers which were forwarded to the Department with your office letter of January 18, 1907, relating to the Shadley case.

Very respectfully,

(Signed) Frank Pierce.

First Assistant Secretary.

Enclosures.

D.O.N.

DEPARTMENT OF THE INTERIOR,
WASHINGTON,

J.V.N.

D-8505.

October 1909.

98049

Dec. 7, 1909.

The Commissioner
of Indian Affairs.

Sir:

The Department has considered the Chectaw enrollment cases of Mattie Shooley, et al., and Lulu West, et al., transmitted with your office letter of July 26, 1909 (Land, 29293-09), with a view to determining whether the applicants should be accorded the status of recognized citizens of the Tribe.

March 19, 1906, the Commissioner to the Five Civilized Tribes rendered a decision holding that the principal applicants, as well as the others named on the first page of your office letter, should be enrolled as citizens of the Chectaw Nation under the acts of June 28, 1898 (30 Stat., 495) and July 1, 1902 (32 Stat., 641). December 22, 1906, the Indian Office recommended that said decision be affirmed. Following this recommendation, the Department January 9, 1907, affirmed the said decision of the Commissioner to the Five Civilized Tribes.

Subsequently, the Commissioner to the Five Civilized Tribes, pursuant to his decision of March 19, 1906, forwarded schedules of citizens of the Chectaw Nation con-

Department-2.

taining the names of these applicants to the Secretary of the Interior for approval. In view, however, of the opinion of the Attorney-General of February 13, 1907, relating to the cases of Lulu West and others, the Secretary rescinded his decision of January 9, 1907, which was in favor of the claimants, and disapproved the schedules containing their names.

The Commissioner to the Five Civilized Tribes, reporting April 14, 1909, says that it does not appear from the records of his office that any attempt was made, directly or indirectly, to give the applicants notice of the proceedings looking to the rescinding of the decision of the Secretary of the Interior in their cases.

The recommendation of your office is to the effect that these applicants should be accorded the status of recognized and enrolled citizens of the Choctaw Nation. In connection with this recommendation the view is expressed that the decision of the Secretary of the Interior of January 9, 1907, affirming the decision of the Commissioner to the Five Civilized Tribes of March 10, 1906, in favor of the applicants, constituted in legal effect an enrollment of these persons. This conclusion was based upon departmental decision of August 15, 1907, in the case of Serena Bullocks et al. Your office also expressed the opinion that in view of the principles announced by the Supreme Court of the United States in its decision of November 30, 1905, in the Goldsby case (211 U. S., 245), it was not within the authority

Department-3.

of the Department to withdraw, rescind, or revoke its decision, or to take any other action to deprive these claimants of the rights acquired by them without giving them notice and affording them an opportunity to be heard.

In all material respects, these cases are similar to that of Winerva T. Suddley, in which a decision adverse to the applicant was rendered by the Department August 9, 1909.

As that decision is regarded as controlling, the Department concludes that there is no further action which can or should be taken by it in the cases of the persons referred to above.

Referring to Felix K. West, and other persons mentioned on the second page of your office letter, recommendation is made therein that no action be taken by the Department looking to their enrollment, inasmuch as it does not appear that any decision was ever rendered by it in favor of enrolling them. The Department concurs in this recommendation.

The papers transmitted by your office are returned herewith, together with other papers which were forwarded to the Department with your office letter of January 15, 1909, relating to the Shuckley case.

Very respectfully,

(Signed) Frank Pierce.

First Assistant Secretary.

Enclosures.

5504(3)
7/ 5738

Muskogee, Indian Territory, June 14, 1904.

John Shookley,
Silo, Indian Territory.

Dear Sir:

Receipt is hereby acknowledged of your letter of June 1st in which you ask if the enrollment of yourself and certain members of the Shookley family has been approved.

In reply to your letter you are informed that John E. Shookley, his mother, Mattie Shookley, and other members of the Shookley family were denied citizenship in the Choctaw Nation by a decree of the Choctaw and Chickasaw Citizenship Court, rendered March 21, 1904; the Commission therefore has no jurisdiction over this case.

Respectfully,

Chairman.

Muskogee, Indian Territory, February 23, 1901.

James S. Osborn,

Oakland, Indian Territory.

Dear Sir:

The Commission is in receipt of your letter of the 18th instant, in which you desire to be furnished with a certificate of the enrollment of John E. Shuckley, 14 years of age, of Lebanon, Indian Territory.

Replying to your letter you are informed that the Commission cannot at this time issue a certificate as to the enrollment of any party as a citizen of the Choctaw or Chickasaw Nation.

The records of the Commission show, however, that John E. Shuckley, 12 years of age, the son of Mattie and John Shuckley, of Lebanon, Indian Territory, was on October 4th, 1898, listed for enrollment as a citizen of the Choctaw Nation, having been admitted to such citizenship by judgment of the United States Court for the Central District of the Indian Territory, rendered at South McAlester, Indian Territory, August 30th, 1897, in court case No. 226.

Yours truly,

Acting Chairman.

Choctaw 5238

Muskogee, Indian Territory, February 6, 1904.

J. R. Osborn,

Hartshorne, Indian Territory,

Dear Sir:

Receipt is hereby acknowledged of your letter of February 1, relative to Mattie L. Shockley, and giving the names of her husband and son.

You are advised that it appears from our records that Mattie Shockley and her son John L. Shockley were admitted to citizenship in the Choctaw Nation by a judgment of the United States Court for the Central District of the Indian Territory, rendered at South McAlester, August 30, 1897, in Court case, Citizenship Docket, Number 226. If her case is now pending before the Choctaw-Chickasaw Citizenship Court you should address the Clerk of that Court at South McAlester, Indian Territory, for information relative thereto.

Respectfully,

Commissioner in charge.

SPECIAL.

J.P.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

PM

D. . . 2920-1907.
I.T.D. 25868-1906.
818-1907.

January 15, 1907.

LRS

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

Referring to departmental letters of January 9 and 14, 1907, in the matter of the application for the enrolment of Mattie Shockley et al., as citizens by blood of the Choctaw Nation, you are advised that by direction of the President the case will be submitted to the Attorney-General for his opinion. You will suspend action relative to these claimants until further advised.

Respectfully,

Thos Ryan

First Assistant Secretary.

D. C. 10915-1907.

JP.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

L/R

February 23, 1907.

I. T. D. 4364-1907.

L. R. S.

Direct.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

Confirming telegram of this date, as follows--

"You are directed to inspect the partial rolls of citizens of the Choctaw and Chickasaw nations to determine what persons have been enrolled thereon contrary to the views expressed by the Attorney-General in opinion of February 19, copy sent you this day, and whose names should be stricken therefrom. You will furnish the Department a list of such names with roll numbers, and give such information that it may readily determine whether such names should be stricken from the rolls. This information should reach the Department before March first. Take like action relative to the rolls of the Cherokee and Creek nations.

It was held in such opinion, among other things, that the decisions of the Commission under act of 1896, not appealed from, were final, and that the decisions of the Choctaw and Chickasaw Citizenship Court were final, whether claimant's name was on tribal rolls or not.

Decisions of the Department, based upon opinions of the Assistant Attorney-General, in favor of claimants in the cases of Loula West et al., William C. Thompson et al., and Richard P. Coleman et al. are rescinded in letter to you of this day. The decision of the Department in the Ethel Pierson case, minor child of a Choctaw freedman, is sustained in the opinion of the Attorney-General.

E. A. Hitchcock,
Secretary."

a copy of the opinion of the Attorney-General referred to therein is inclosed, and you are directed to strike the names of the claimants in the Chestaw enrollment cases of Loula West et al., if enrolled; William C. Thompson et al., and Richard B. Coleman et al. from the partial roll of citizens of the Chestaw Nation, as of this date, referring to this letter as your authority. Advise the Department of your action, giving roll numbers, etc., in order that the parts of the rolls in the possession of the Department and the Indian Office may be made to show the cancellation.

In accordance with said opinion, the enrollment of Cyrus H. Kingsbury and Lucy E. Littlepage will be allowed to stand. The patent in favor of Cyrus H. Kingsbury received with your letter of March 10, 1896, has been approved and is inclosed.

As soon as practicable you will advise the Department relative to the status of any land, whether patented, etc., that may have been selected by any person hereby stricken from the rolls or to be stricken from such rolls, and make such recommendations as to the course that should be pursued concerning such tracts as you deem proper.

A carbon copy hereof has been sent to the Indian Office.

Respectfully,

E. A. Hitchcock,

Secretary.

2 inclosures.

D.O.M.
S.W.V.
File 5-51.
D
6476

J.W.H.
J.W.H.
V.C.P.
J.W.L.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

March 1, 1909

Seal-- 17077
Office of Ind. Affairs
Rec. March 3-1909.

The Commissioner

to the Five Civilized Tribes.

Sir:

January 25, 1909, you were advised that the names of certain persons were inadvertently included in Departmental letter of January 19, 1909 (File 5-51); that such mistake was due to the fact that it was supposed they were enrolled upon schedules approved by the Department, when in fact, the only schedules upon which their names appear were disapproved, and that no action should be taken under the circumstances looking to the erasure of interlineations or notations, if any, from the disapproved schedules, in connection with their names.

The names of the persons referred to in said letter of January 25, 1909, are as follows:

Chestnut by Blood.

Roll No.

14103

Elizabeth Allen.

16112
16110
16106
16111
16105
16107
16108
16109
921
922
16104

George A. Rungarner.
Leutitia Crutchfield.
Everett Crutchfield.
George W. Crutchfield.
Ida Crutchfield.
Ima Crutchfield.
Louvinia Crutchfield.
William Crutchfield.
Josephine LaFlere Long.
Hake Laflere Long.
David Ritter.

It now appears from the records of the Secretary's Office that there was a schedule approved May 21, 1904, by the Secretary of the Interior, and that the approval then given was cancelled by said Secretary at a later date, to-wit, June 28, 1904.

The name of Elizabeth Allen appears upon the schedule which was approved May 21, 1904, opposite the number 15551. Ida Crutchfield's name appears opposite No. 15553, while the other members of the Crutchfield family were given the numbers immediately following that assigned to her.

You are requested to cause a report to be prepared showing whether the records of your Office also show that an earlier schedule containing the names of said persons was approved May 21, 1904; also whether such approval was cancelled June 28, 1904. Please report also the reason for the attempted cancellation, and whether prior notice was given thereof.

It appears further that, in connection with the names of Elizabeth Allen and the Crutchfield family on the roll approved May 21, 1904, the names of Ardella Hickman, Ida M. Southard and Grover Randall are also to be found.

In connection with said names, it is desired that you will report what action, in your opinion, should be taken concerning the first of said persons; also whether the said Ida M. Southard and Grover Rnadall, respectively, are identical with the Ida M. Southard whose name appears opposite No. 15880 in the printed rolls of citizens by blood of the Choctaw Nation, and the Grover Randall whose name appears on page 8 of Departmental Letter of January 19, 1909 (File 5-81), opposite No. 15928.

As appears from the above list, there were other persons besides the said Allen and Crutchfield whose names were enrolled on schedules which were finally disapproved by the Department; for example, George A. Fumbarner, Josephine Laflors Long and Jake L. flore Long.

Please report whether the names of these persons appear upon any prior approved schedule; also why it was that the Commissioner to the Five Civilized Tribes enrolled them upon the schedule which was disapproved by the Department, showing whether the Commissioner enrolled them thereon, of his own motion, or under decision or instructions from the Department.

By comparison of the roll approved May 21, 1904, with the printed rolls of Choctaws by blood, the Department finds that the numbers appearing thereon opposite the names of said persons were subsequently assigned to other citizens of the Choctaw Nation; thereby the series of roll numbers was kept perfect, but a material portion of the rolls was evidently sacrificed upon the supposition that it had become

worthless. Inquiry arises in this connection as to whether there were other approved schedules which were subsequently disapproved and thrown aside. Accordingly, it is desired that you also cause a report to be prepared covering this feature of the matter, shewing all persons embraced in similar cases, with recommendation as to what action should be taken as to them. This will necessitate a statement as to why their names were stricken or cancelled from the rolls, and whether such action was taken without prior notice.

There is still another matter concerning which the Department desires report to be made. It is observed that the words "No person enrolled at this number" are to be found not infrequently opposite consecutive numbers on the pages of the printed rolls; and you are requested to advise the Department whether such words were substituted for the names of individuals appearing on disapproved schedules, and if such in the case, whether such disapproved schedules were approved at any time by the Department; also whether favorable decisions were ever rendered by the Department as to such persons prior to their enrollment upon such disapproved schedules.

For the sake of expedition, a partial report should be rendered at once concerning the said Elizabeth Allen and the various members of the Crutchfield family named above. The other matters referred to herein can be disposed of by subsequent reports.

Very respectfully,
Jesse E. Wilson,
Assistant Secretary.

Through the
Indian office.

[illegible]

Land

63220--02

17077-02

J B R

B B H

B B H

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS.

WASHINGTON, D.C.,-----March 6 -09

Respectfully referred to the Commissioner
to the Five Civilized Tribes, for
appropriate action.

John Francis, Jr.
Acting Chief Land Division.

1 Letter
dated Feb. 1, 09.

Muskogee, Oklahoma, April 14, 1909.

Subject:

Reporting on Departmental
letter of March 2, 1909,
as to case of Mattie Shock-
ley, et al. analogous to case
of Minerva F. Swadley, et al.

The Honorable,

The Secretary of the Interior,

Sir:

Receipt is hereby acknowledged of Departmental letter of
March 2, 1909 (File 5-51) asking for reports on certain Choctaw
cases analogous to the case of Minerva F. Swadley, et al. and
directing that the report be made in the form of answers to
questions one to five inclusive in Departmental communication
of February 25, 1909, relative to Mattie L. Armstrong, and
that instead of question six the report should state whether
any attempt was made, directly or indirectly, to give notice
of the rescinding of Departmental decision favorable to the
applicants.

Reference is also made to Departmental letter of March 1,
1909 (File 5-51) asking for reports on the cases of all persons
whose names appear on schedules of Choctaws and Chickasaws
which were disapproved by the Department.

Secretary 2

I have the honor to state that the case of Mattie Shockley, et al. (Loula West case) is one of the cases included in both Departmental letters above referred to, and to report therein as follows:

It appears from the records of this office that on September 2, 1896, in the case entitled F. K. West, et al. versus the Choctaw Nation, 1896 Choctaw Citizenship Case Number 955, original application was made to the Commission to the Five Civilized Tribes under the provisions of the Act of Congress approved June 10, 1896 (29 Stat., 321) for admission of the applicants, Mattie Shockley (as Mattie L. Shockley), Felix K. West (as F. K. West), Ava Shockley, Callie Shockley and Elzora Shockley as citizens by intermarriage of the Choctaw Nation, and John W. Shockley (as Eddie Shockley), Lula West, Roy West, Ephraim E. Shockley, Mattie Shockley, Leverett Shockley, Charles L. Shockley, Albert Shockley, Lenora Parker (as Nora Parker), Albert E. Shockley (as Albert Shockley) and Ethel Shockley as citizens by blood of the Choctaw Nation; that on December 5, 1896, the Commission admitted the above applicants as citizens of the Choctaw Nation.

From this decision an appeal was taken by the Choctaw Nation to the United States Court for the Central District of Indian Territory, which court, in case Number 226 on the Citizenship Docket, affirmed the decision of the Commission admit-

Secretary 3

ting these applicants to citizenship in the Choctaw Nation.

On December 17, 1902, the Choctaw and Chickasaw Citizenship Court, created under the provisions of the Act of Congress approved July 1, 1902 (32 Stat., 641) "set aside, annulled, vacated and held for naught" the aforesaid judgment of the United States Court for the Central District of the Indian Territory. Thereafter the record in this case was certified to the Choctaw and Chickasaw Citizenship Court for a trial de novo, and this court, on March 21, 1904, in the case of F. K. West, et al. versus the Choctaw and Chickasaw Nations, Number 42 on the South McAlester Docket of said court, ordered, adjudged and decreed that all these applicants be denied and declared not citizens of the Choctaw Nation, and not entitled to enrollment as such citizens, or to any rights whatever flowing therefrom.

May 27, 1904, orders were entered of record by the Commission to the Five Civilized Tribes, dismissing the applications for the enrollment of Corine West, Elva May Shockley, Hurman Shockley, Mamie Shockley, Trevor M. Parker, Ludie F. Parker and William Leslie Parker as citizens by blood of the Choctaw Nation for the reason that their parents had been denied enrollment by a decree of the Choctaw and Chickasaw Citizenship Court.

December 16, 1904, Lula West, one of the applicants in this case, forwarded a petition to the President, praying him

Choctaw and Chickasaw Citizenship Court.

Secretary 4

to cause an investigation to be made of the allegations contained in said petition, and if the same were found to be true, to cause her name to be placed upon the final roll of citizens by blood of the Choctaw Nation.

This petition was on February 15, 1905 (I T D 10353-1904) forwarded by the Department to the Commission to the Five Civilized Tribes with instructions to permit the petitioner to submit such testimony in support of her claim as she might see fit and inclosed a copy of an opinion of the Assistant Attorney General for the Department of the Interior of February 10, 1905, wherein it was held that said Commission had jurisdiction to examine into the claimants' cause, and should adjudicate it upon its merits, regardless of the judgment of the Choctaw and Chickasaw Citizenship Court.

A motion for review was filed with the Department by the Attorneys for the Choctaw and Chickasaw Nations, and on December 13, 1905 (I T D 3330-1905) the Department forwarded a copy of an opinion of the Assistant Attorney General for the Department of the Interior of December 8, 1905 (I T D 3693-1905), wherein he adhered to his former opinion rendered February 10, 1905, and held that Lula West having on January 9, 1890, been admitted to citizenship in the Choctaw Nation by the Secretary of the Interior, the Commission to the Five Civilized Tribes had no jurisdiction under the Act of Congress of

Secretary 5

June 10, 1906, to pass upon her rights, and the United States Court for the Central District of Indian Territory, and the Choctaw and Chickasaw Citizenship Court on appeal were also without jurisdiction. Copies of this opinion were forwarded the applicant, Lula West, and her attorney of record on December 23, 1906.

Under the regulations adopted by the Commissioner to the Five Civilized Tribes January 2, 1906, there was filed on January 22, 1906, by Thomas Norman, of Ardmore, Indian Territory, attorney for the petitioners, a petition verified by Lula West, and submitted on behalf of Lula West, F. K. West, Roy West, Marie West, Corine West, Elzara Shookley, Ethel Jones, nee Shookley, Charles L. Shookley, Callie Shookley, Albert Shookley, Herman Shookley, Manie Shookley, Herbert E. Shookley, E. E. Shookley, Ava Shookley, Mattie Shookley, Leverett Shookley, Elva May Shookley, Plasse Shookley, Pauline Daniel, nee Shookley, Albert Shookley, Mattie L. Osborn, nee Shookley, Edie Shookley, Lanora Parker, nee Shookley, Treva Myrtle Barker, Lodie Franklin Parker, William Leslie Parker, and Albert M. Shookley, praying that they be enrolled as citizens of the Choctaw Nation.

All parties in interest were notified and a hearing was had in this case March 5, 1906.

Secretary 6

It appears from the record in this case that on July 18, 1889, on appeal from the adverse action of the Choctaw National Council, the United States Indian Agent, Leo E. Bennett, rendered a decision admitting John Shockley, now deceased, Mattie L. Shockley, William Shockley, now deceased, Elzora Shockley, Charles L. Shockley, Ephriam Shockley, Lula Shockley and Robert Shockley to Choctaw citizenship, said decision being on January 9, 1890, approved by the Secretary of the Interior.

The applicants contended that no such person as Robert Shockley existed; that this was an error and should have been Albert Shockley, now deceased, a son of John Shockley, the principal petitioner before the Indian Agent.

Upon an examination of the tribal rolls of the Choctaw Nation in the possession of this office, the names of John E. Shockley, Lula West, Roy West, Ephriam E. Shockley, Mattie Shockley, Charles L. Shockley and Albert Shockley are identified upon the 1893 Leased District Payment Roll of the Choctaw Nation, Chickasaw District, Numbers 501, 561, 562, 498, 499, 497 and 500 respectively.

March 19, 1906, the Commissioner to the Five Civilized Tribes rendered an opinion which rescinded the orders of the Commission to the Five Civilized Tribes of May 27, 1904, dismissing the applications for the enrollment of Corine West, Elva May Shockley, Herman Shockley, Mamie Shockley, Trevor H.

Secretary 7

Parker, Ludie P. Parker and William Leslie Parker, and, in accordance with the opinions of the Assistant Attorney General for the Department of the Interior of February 10, 1905 (I T D 10353-1904) and December 8, 1905 (I T D 3693-1905) in the case of Lula West (Loula West), held that John E. Shockley, Lula West, Roy West, Marie West, Corine West, Ephrian R. Shockley, Mattie Shockley, Leverett Shockley, Elva May Shockley, Charles T. Shockley, Albert Shockley, Herman Shockley, Mamie Shockley, Albert R. Shockley and Albert P. Shockley should be enrolled as citizens by blood of the Choctaw Nation, and that Mattie Osborn, Ava Shockley, Callie Shockley and Pauline Shockley should be enrolled as citizens by intermarriage of said Nation, under the Acts of Congress approved June 28, 1898 (30 Stat., 425) and July 1, 1902 (32 Stat., 641).

The Commissioner further held that the applications made for the enrollment of Felix K. West and Elzora Shockley as citizens by intermarriage of the Choctaw Nation and the applications for the enrollment of Lenora Parker, Trevor M. Parker, Ludie P. Parker, William Leslie Parker and Ethel Shockley as citizens by blood of said nation should be denied under the provisions of the Act of Congress approved June 28, 1898.

The applicants, Flossie Shockley and Harbert E. Shockley, not being the children of recognized and enrolled citizens by

Secretary's

blood of the Choctaw Nation whose enrollment had been approved by the Secretary of the Interior prior to March 3, 1906, the applications for their enrollment as citizens by blood of the Choctaw Nation were dismissed without prejudice.

May 4, 1906, notice of this decision was forwarded the parties in interest by registered mail, and on the same date the original record in this case, together with the decision of March 19, 1906, was transmitted to the Department.

May 9, 1906, Thomas Norman forwarded a statement of exceptions to the decision in this case, in so far as it pertained to certain persons who were denied therein, and requested that the same be transmitted to the Secretary of the Interior, which was done May 14, 1906.

December 22, 1906 (Land 40199,42786-1906) the Indian Office recommended that the decision of the Commissioner of March 19, 1906, be affirmed, and that, in the event the Department did affirm this decision, the Commissioner to the Five Civilized Tribes be directed to enroll the applicants, Plasse and Herbert E. Shockley, under Section two of the Act of Congress approved April 26, 1906 (34 Stat., 137). January 9, 1907 (I T D 25864-1906) the Secretary of the Interior affirmed the decision of the Commissioner to the Five Civilized Tribes of March 19, 1906, and directed that the office proceed with the adjudication of the claims of Plasse Shockley and

Secretary 9

Herbert E. Shockley under legislation enacted subsequent to the decision of March 19, 1906.

January 14, 1907 (I T D 23864-1906) this office was directed by the Department not to promulgate the decision of January 9, 1907 in this case and to return it at once direct to the Department as the parties in the case were not to be enrolled unless further advised by the Secretary of the Interior.

January 15, 1907 (I T D 813-1907) this office was advised, with reference to Departmental letters of January 9 and January 14, 1907, in the matter of the application for the enrollment of Mattie Shockley, et al. as citizens by blood of the Choctaw Nation, that, by direction of the President, the case would be submitted to the Attorney-General for his opinion and that no further action should be taken relative to these claimants until this office was further advised. 1

January 17, 1907, this office acknowledged receipt of Departmental letters of January 14, 1907 and January 15, 1907, and in conformity with the request of the Department, the communication of January 9, 1907, affirming the decision of the Commissioner to the Five Civilized Tribes of March 19, 1906, in the Choctaw enrollment case of Mattie Shockley, et al., together with the report of the Acting Commissioner of Indian

Secretary 10

Affairs of December 22, 1906, was returned direct to the Department.

February 23, 1907 (I T D 4564-1907) this office was directed by telegram from the Department, which was subsequently confirmed by letter of the same date, to inspect the partial rolls of citizens of the Choctaw and Chickasaw Nations to determine what persons were enrolled thereon contrary to the views expressed by the Attorney-General in his opinion of February 19, 1907. The office was further advised in said telegram that decisions of the Department, based upon opinions of the Assistant Attorney-General in favor of claimants in certain cases, among which was Loula West, et al., were rescinded.

February 12, 1907, there were transmitted for the consideration of the Department, schedules of citizens of the Choctaw Nation, as follows:

Citizens by blood	Nos. 16160 to 16174, inclusive
Citizens by marriage	Nos. 1646 to 1649 inclusive
Minor citizens by blood	Nos. 919 to 920 inclusive

These schedules were composed of the persons who had been admitted by the Commissioner to the Five Civilized Tribes in his decision of March 19, 1906, in the case of Mattie Shockley et al. and Herbert E. Shockley and Flossie Shockley, whose names were scheduled without decisions in accordance with the provisions of the Act of Congress approved April 26, 1906,

Secretary 11

Inasmuch as the time within which persons could be enrolled and their enrollment approved by the Secretary of the Interior under the provisions of the Act of Congress approved April 26, 1906, was becoming very short, the schedules above described were prepared at this office without waiting for the opinion of the Attorney-General and were forwarded to the Department, in order that, if the opinion of the Attorney-General were favorable to their contention, the rights of these applicants might be protected by the Department without delay.

February 27, 1907, referring to Departmental letter of February 23, 1907, authorizing this office to cancel the enrollment of the persons included in the case of Loula West, et al. this office reported that the schedules above referred to had been transmitted to the Department on February 12, 1907, and recommended that the decision of March 13, 1906, be not approved and that the schedules containing the names of the persons included in this decision be disapproved by the Department.

February 26, 1907 (I T D 1402-1907) the Department, in view of the opinion of the Attorney-General of February 19, 1907, in the case of Loula West et al., rescinded its decision of January 9, 1907, in favor of the claimants in the case of Mattie Kneekley, et al. and reversed the decision of this of-

Secretary 12

rice of March 19, 1906, favorable to the applicants.

March 1, 1907 (I T D 5680,5684-1907) the Department advised this office that the schedules containing the names of the parties applicant in the case of Mattie Shockley, et al. (Loula West case) had been disapproved. A report of the Indian Office of February 28, 1907 (Land 46776-1907) was also transmitted.

March 16, 1907, the parties in interest in this case were advised of the action of the Department reversing the decision of the Commissioner of March 19, 1906 as to the persons admitted therein and affirming it as to the persons denied by said decision.

Inasmuch as the persons included in this case were never upon the approved rolls no certificates of allotment were issued to them. Contests were filed by them, but were dismissed after the action of the Department in denying their applications.

I have further to report that it does not appear from the records of this office that any attempt was made, directly or indirectly, to give the above named applicants notice of the proceedings looking to the rescinding of the decision of the Secretary of the Interior in their case.

Inasmuch as the record in this case is very full and complete, and it is believed that the applicants could not

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and anything thereto, this office has not forwarded to them notices as referred to in Departmental letter of March 15, 1909, relative to applications for restoration to citizenship status in the Five Civilized Tribes, and will withhold such action unless it is the wish of the Department that the same should be furnished these applicants.

However, if it is desired that the notices be forwarded, or if it is the wish of the Department that the parties applicant in cases of this character should be notified to have their attorneys submit written argument as to their contention that their case falls within the principles of the opinion of the Supreme Court in the Goldeby and Allison cases, this office will proceed to notify the applicants to this effect immediately upon receipt of advice from the Department, and will make supplemental report after their replies have been received.

Respectfully,

Commissioner.

Through the Commissioner
of Indian Affairs.

AB

Muskogee, Oklahoma, January 6, 1910.

Mrs. Mattie Osborn,
Hartshorne, Oklahoma.

Sir:

Referring to the Choctaw enrollment cases of Mattie Shockley, et al. and Lulu West, et al., you are advised that on December 7, 1909, the Department held that no further action could or should be taken looking to the enrollment of the applicants therein.

Respectfully,

Acting Commissioner.

W.M.

7-8034

Muskogee, Oklahoma, January 5, 1910.

Mrs. Mattie Osborn,
Hartshorne, Oklahoma.

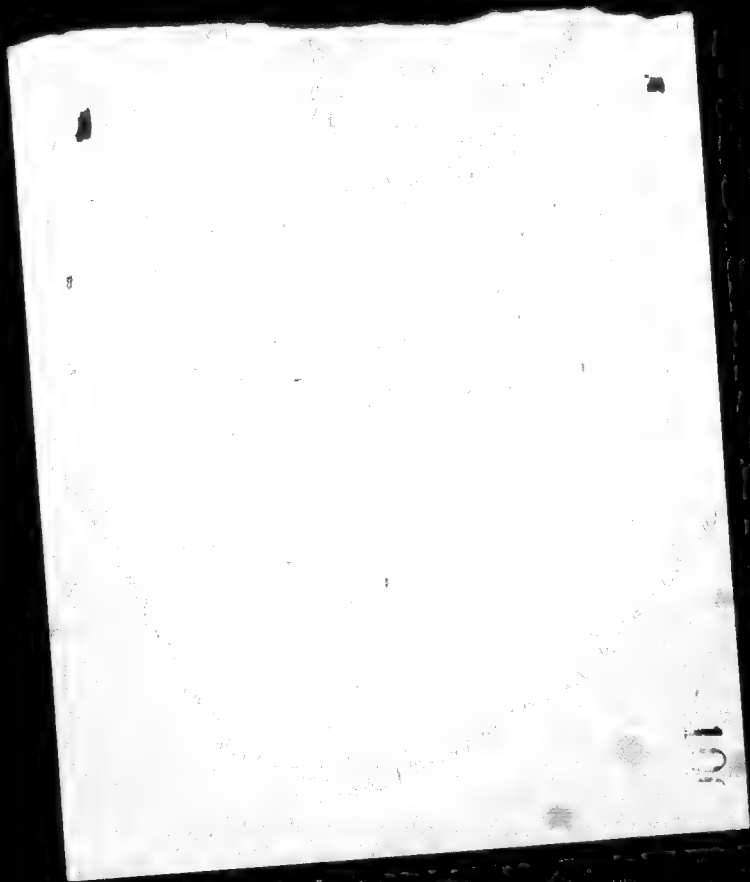
Madam:

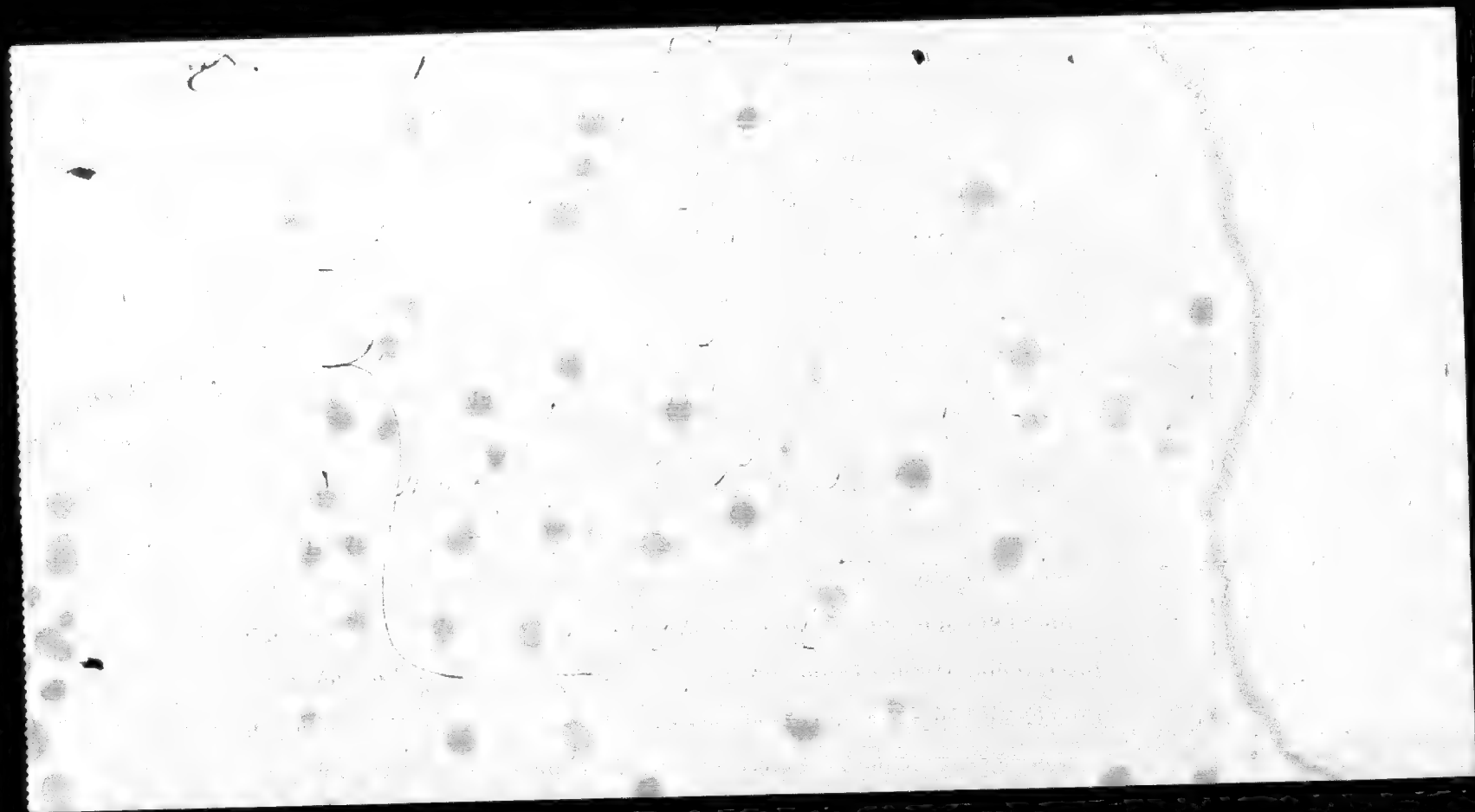
Referring to the Choctaw enrollment cases of Mattie Shockley, et al. and Lulu West, et al., you are advised that on December 7, 1909, the Department held that no further action could or should be taken looking to the enrollment of the applicants therein.

Respectfully,

Acting Commissioner.

WOM





Choctaw 6035

Decision of Commissioner
enrolling applicants reversed by
Dept, etc.

4-14-09 Report To Dept.

Transferred from 7D51 5-20-06

Duplicate record Bound, See Pt. #C-16

6035

Department of the Interior
Commission to the Five Civilized Tribes
Ardmore, I.T. October 27, 1902.

Choctaw D-51.

In the matter of the application for the enrollment of Pauline Shockley as a citizen by intermarriage of the Choctaw Nation and for the enrollment of her minor son Albert P. Shockley as a citizen by blood of the Choctaw Nation.

V. K. West being first duly sworn testified as follows:

Examination by the Commission

- Q What is your name? A P. K. West.
- Q What is your age? A Thirty-seven.
- Q What is your post office address? A Durwood.
- Q Are you a citizen by blood of the Chickasaw Nation? A No, sir; I am a resident.
- Q Are you acquainted with Pauline Shockley? A Yes, sir.
- Q What was the name of her Indian husband? A Albert Shockley.
- Q Was he an applicant before the Commission for enrollment as a citizen by blood of the Choctaw Nation? A No, sir.
- Q Is he now living? A No, sir.
- Q When did he die? A Well I don't believe I can give you the exact date but he died while the case was pending after the appeal from the Dawes Commission by the Choctaw Nation.
- Q When was Pauline Shockley married to Albert Shockley? A I guess it was in 1896; I would not say positively.
- Q Were they married in accordance with the Choctaw law? A No, sir; they married in Bell County, Texas.
- Q Was Pauline Shockley a resident of the state of Texas at that time? A Yes, sir.
- Q Where did Albert P. Shockley reside at that time? A At that time he was residing in Texas.
- Q Did he die in Texas? A Yes; he died in Texas, this was his home however.
- Q Did Pauline Shockley ever live in the Choctaw Nation? A No, sir; but she lived in the Chickasaw Nation.
- Q How long did she live in the Chickasaw Nation? A About a year or year and a half.
- Q When did she remove to the Chickasaw Nation? A Soon after her marriage.
- Q Can you state about what time she returned to Texas after she left here? A No, sir--not very long after his death.
- Q He died in 1897? A Yes; she stayed here a short time after he died and then went back.
- Q How long after his death did she return to Texas? A Not over six months.
- Q Was it in 1897? A Yes;--it might have been 1898, I guess it was in 1898, the latter part of '98 because she was living here when the Commission was here.
- Q Are you sure that she was a resident of the Chickasaw Nation when the Commission was here in 1898? A Yes, sir.

#2

- Q Soon after this time she removed to the State of Texas and has lived there ever since? A Yes, sir.
- Q Did Pauline Shockley have any children by Albert P. Shockley? A Yes, sir.
- Q How many? A One.
- Q What was this child's name? A They called him Albert; he was named after his father.
- Q Is Albert Shockley Junior the son at present living with his mother? A Yes, sir.
- Q In the state of Texas? A Yes, sir.
- Q He has been living there ever since she removed to Texas? A Yes, sir.
- Q Pauline Shockley and her son Albert P. Shockley are now residents of the state of Texas? A Yes, sir.
- Q They have no residence here? A No, sir.
- Q They have not lived in the Chickasaw Nation since they have returned to Texas in 1898? A No, sir.
- Q Do you know when the child Albert was born? A No, sir; I don't the dates.
- Q Do you know where the mother was living when the child was born? A She was with her father in the state of Texas but she was not making her home there then.
- Q What was she doing over there at her father's at that time? A She was just visiting.
- Q Then after the birth of Albert she returned to the Chickasaw Nation? A Yes, sir.
- Q For how long? A Probably about six months.

Examination by R. L. Murray, Chickasaw Commissioner:

- Q Been there ever since 1898? A Yes; she has never been back here to make this her home.

G. Rosenwinkel being duly sworn on his oath states that as stenographer to the Commission to the Five Civilized Tribes he reported in full all the proceedings had in the above entitled cause on October 27, 1902, and that the above and foregoing is a full, true and correct transcript of his stenographic notes in said cause on said date.

Subscribed and sworn to before me this 29 day of November 1902.

Notary Public.

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES.

X-----X
: :
: In the matter of the application of :
: Pauline Shookley for the enrollment :
: of herself as an intermarried citizen: :
: of the Choctaw Nation, and for the :
: enrollment of her minor child, Albert :
: P. Shookley, as a citizen by blood of :
: the Choctaw Nation. :
: :
X-----X

---D 51---

On February 28, 1902, the principal applicant, Pauline Shookley, was notified by registered mail that the application for the enrollment of herself as an intermarried citizen of the Choctaw Nation, and of her minor child, Albert P. Shookley, as a citizen by blood of the Choctaw Nation, would be taken up by the Commission to the Five Civilized Tribes at its office in Muskogee, Indian Territory, on the 2nd day of April, 1902, for final consideration.

Now, on this 2nd day of April, 1902, this cause coming on to be heard pursuant to said notice, the following appearances were made:

A P P E A R A N C E S :

The applicants, by their at- : No appearance by attorneys
torney, C. L. Herbert, : for the Choctaw nation.

S T A T E M E N T B Y C O U N S E L :

Mr HERBERT: We submit the case upon the evidence and record now on file, with the suggestion that the record in the case shows that Pauline Shookley, whose maiden name was Pauline DuBose was married to Albert P. Shookley, a Choctaw by blood, under license issued under United States law, and our contention is that under the tribal laws it was not necessary to obtain a tribal license in order for a male Choctaw to confer citizenship upon his wife.

By the Commission: This case will be considered by the Commission upon the record as now made up.

Harry C. Risteen, being first duly sworn, upon his oath states That as stenographer to the Commission to the Five Civilized Tribes, he reported in full all proceedings had in the above entitled cause on the 2nd day of April, 1902, and that the

Pauline Shackley, et al.,----2

above and foregoing is a full, true and correct transcript of
his stenographic notes of said proceedings on said date.

Harry Christen

Subscribed and sworn to before me this 3rd day of April,
1902.

Wm Mitchellwood

Notary Public.

Department of the Interior
Commission to the Five Civilized Tribes
Ardmore, I.T. October 27, 1902.

Choctaw D-51.

In the matter of the application for the enrollment of Pauline Shockley as a citizen by intermarriage of the Choctaw Nation and for the enrollment of her minor son Albert P. Shockley as a citizen by blood of the Choctaw Nation.

F. K. West being first duly sworn testified as follows:

Examination by the Commission

- Q What is your name? A F. K. West.
Q What is your age? A Thirty-seven.
Q What is your post office address? A Durwood.
Q Are you a citizen by blood of the Chickasaw Nation? A No, sir; I am a resident.
Q Are you acquainted with Pauline Shockley? A Yes, sir.
Q What was the name of her Indian husband? A Albert Shockley.
Q Was he an applicant before the Commission for enrollment as a citizen by blood of the Choctaw Nation? A No, sir.
Q Is he now living? A No, sir.
Q When did he die? A Well I don't believe I can give you the exact date but he died while the case was pending after the appeal from the Dawes Commission by the Choctaw Nation.
Q When was Pauline Shockley married to Albert Shockley? A I guess it was in 1896; I would not say positively.
Q Were they married in accordance with the Choctaw law? A No, sir; they married in Bell County, Texas.
Q Was Pauline Shockley a resident of the state of Texas at that time? A Yes, sir.
Q Where did Albert P. Shockley reside at that time? A At that time he was residing in Texas.
Q Did he die in Texas? A Yes; he died in Texas, this was his home however.
Q Did Pauline Shockley ever live in the Choctaw Nation? A No, sir; but she lived in the Chickasaw Nation.
Q How long did she live in the Chickasaw Nation? A About a year or year and a half.
Q When did she remove to the Chickasaw Nation? A Soon after her marriage.
Q Can you state about what time she returned to Texas after she left here? A No, sir--not very long after his death.
Q He died in 1897? A Yes; she stayed here a short time after he died and then went back.
Q How long after his death did she return to Texas? A Not over six months.
Q Was it in 1897? A Yes;--it might have been 1896, I guess it was in 1896, the latter part of '96 because she was living here when the Commission was here.
Q Are you sure that she was a resident of the Chickasaw Nation when the Commission was here in 1897? A Yes, sir.

#2

- Q Soon after this time she removed to the State of Texas and has lived there ever since? A Yes, sir.
- Q Did Pauline Shockley have any children by Albert P. Shockley? A Yes, sir.
- Q How many? A One.
- Q What was this child's name? A They called him Albert; he was named after his father.
- Q Is Albert Shockley Junior the son at present living with his mother? A Yes, sir.
- Q In the state of Texas? A Yes, sir.
- Q He has been living there ever since she removed to Texas? A Yes, sir.
- Q Pauline Shockley and her son Albert P. Shockley are now residents of the state of Texas? A Yes, sir.
- Q They have no residence here? A No, sir.
- Q They have not lived in the Chickasaw Nation since they have returned to Texas in 1898? A No, sir.
- Q Do you know when the child Albert was born? A No, sir; I don't the dates.
- Q Do you know where the mother was living when the child was born? A She was with her father in the state of Texas but she was not making her home there then.
- Q What was she doing over there at her father's at that time? A She was just visiting.
- Q Then after the birth of Albert she returned to the Chickasaw Nation? A Yes, sir.
- Q How long? A Probably about six months.

Examination by R. L. Murray, Chickasaw Commissioner:

- Q Been there ever since 1898? A Yes; she has never been back here to make this her home.

G. Rosenwinkel being duly sworn on his oath states that as stenographer to the Commission to the Five Civilized Tribes he reported in full all the proceedings had in the above entitled cause on October 27, 1902, and that the above and foregoing is a full, true and correct transcript of his stenographic notes in said cause on said date.

Subscribed and sworn to before me this 29 day of November 1902.

Notary Public.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of
Mattie Shockley, et al., as citizens of the Choctaw Nation, consoli-
dating the applications of

Mattie Shockley, et al	7-5236
Lula West, et al.	7-5191
Ephriam E. Shockley, et al	7-5109
Charles L. Shockley, et al.	7-5108
Lenora Parker, et al.	7-5190
Albert R. Shockley,	7-5193
Elsora Shockley, et al.	7-5109
Pauline Shockley, et al.	7-5151

DECISION.

It appears from the record herein that on October 4, 1898, application was made to the Commissioner to the Five Civilized Tribes for the enrollment of Mattie Shockley as a citizen by intermarriage of the Choctaw Nation, and for the enrollment of her son, John E. Shockley, as a citizen by blood of the Choctaw Nation; on September 24, 1898, application was made by Felix K. West for the enrollment of himself as a citizen by intermarriage of the Choctaw Nation, and for the enrollment of his wife, Lula West, and his three minor children, Roy, Marie, and Corine West, as citizens by blood of the Choctaw Nation; on September 22, 1898, application was made by Ephriam E. Shockley for the enrollment of himself and two minor children, Mattie and Leverett Shockley, as citizens by blood of the Choctaw Nation, and for the enrollment of his wife, Ava Shockley, as a citizen by intermarriage of the Choctaw Nation; on September 24, 1898, application was made by Charles L. Shockley for the enrollment of himself and two minor children, Albert and Herman Shockley, as citizens by blood of the Choctaw Nation, and for the enrollment of his wife Callie Shockley, as a citizen by intermarriage of the Choctaw Nation; on September 24, 1898, application was made by Lenora Parker for the enrollment of herself and minor child, Trevor M. Parker, as citizens by blood of the Choctaw Nation; on September 24, 1898, application was made by Albert R. Shockley for the enrollment of himself as a citizen by blood of the Choctaw Nation; on September 24, 1898, application was made by Elsora Shockley, for the enrollment of herself as a citizen by intermarriage of the Choctaw Nation, and for the enrollment of her child, Ethel Shockley, as a citizen by blood of the Choctaw Nation; on September 24, 1898, application was made by Pauline Shockley for the enrollment of herself as a citizen by intermarriage of the Choctaw Nation; and for the enrollment of her son, Albert P. Shockley, as a citizen by blood of the Choctaw Nation.

On November 13, 1900, written application was made to the Commission to the Five Civilized Tribes for the enrollment of Elva May Shockley, minor child of Ephriam E. Shockley and Ava Shockley; on December 14, 1899, written application was made for the enrollment of Mamie Shockley, minor child of Charles L. Shockley and Callie Shockley; and on October 30, 1899, and April 29, 1902, written application was made for the enrollment of Lottie P. Parker and William Leslie Parker, respectively, minor children of Lenora Parker and W. L. Parker, a non-citizen white man.

It appears from the records of the Commission to the Five Civilized Tribes that on September 9, 1896, in the case entitled "F. K. West vs. Choctaw Nation" (1896 Choctaw Citizenship Docket, Case No. 955), original application was made to said Commission, under the provisions of the Act of Congress approved June 10, 1896 (29 Stats., 321), for admission to citizenship in the Choctaw Nation of the applicants, Mattie Shockley (as Mattie L. Shockley), Felix K. West (as F. K. West), Ava Shockley, Callie Shockley, and Elzora Shockley as citizens by intermarriage of the Choctaw Nation, and John E. Shockley (as Eddie Shockley), Lula West, Roy West, Ephriam E. Shockley, Mattie Shockley, Leverett Shockley, Charles L. Shockley, Albert Shockley, Lenora Parker (as Nora Parker, Albert R. Shockley (as Albert Shockley), and Ethel Shockley as citizens by blood of the Choctaw Nation; that on December 5, 1896, said Commission rendered its decision therein admitting Mattie Shockley (as Mrs. Mattie L. Shockley), Felix K. West (as F. K. West), Ava Shockley, Callie Shockley, and Elzora Shockley as citizens by intermarriage of the Choctaw Nation, and John E. Shockley (as Eddie Shockley), Lula West, Roy West, Ephriam E. Shockley, Mattie Shockley, Leverett Shockley, Charles L. Shockley, Albert Shockley, Lenora Parker (as Nora Parker), Albert R. Shockley (as Albert Shockley) and Ethel Shockley, as citizens by blood of said Nation. From this decision of the Commission, an appeal was taken by the Choctaw Nation to the United States Court for the Central District of Indian Territory, which Court in the case entitled "F. K. West vs. Choctaw Nation" (Central District Citizenship case No. 226), affirmed the decision of said Commission, admitting Mattie Shockley (as Mattie L. Shockley), Felix K. West (as F. K. West), Ava Shockley, Callie Shockley and Elzora Shockley as citizens by intermarriage of the Choctaw Nation, and John E. Shockley (as Eddie Shockley), Lula West, Roy West, Ephriam E. Shockley, Mattie Shockley, Leverett Shockley, Charles L. Shockley, Albert Shockley, Lenora Parker (as Nora Parker), Albert R. Shockley (as Albert Shockley) and Ethel Shockley, as citizens by blood of the Choctaw Nation.

It further appears from the records of said Commission that on December 17, 1902, the Choctaw and Chickasaw Citizenship Court created under the provisions of the Act of Congress approved July 1, 1902 (32 Stat. 641) "set aside, annulled, vacated and held for naught" the aforesaid judgment of the United States Court for the Central District of Indian Territory.

Thereafter, the record in the above case was certified to the Choctaw and Chickasaw Citizenship Court for a trial de novo, which Court on March 21, 1904, in the case of "F. K. West et al., vs. Choctaw and Chickasaw Nations" (Choctaw-Chickasaw Citizenship Court case No. 42 South McAlester Docket), "ordered, adjudged, and decreed that the petition of the plaintiffs, F. K. West, Ava Shockley, Callie Shockley, Elzora Shockley (or Alsora Shockley), Mattie L. Shockley, (now Mattie L. Osborn), Charles L. Shockley, Ephriam E. Shockley (as Ephriam E. Shockley), Eddie Shockley, Lula West, Albert Shockley, Roy West, Marie West, Mattie Shockley, Leverett Shockley, Ethel Shockley, Nora Shockley (now Nora Parker) and Albert R. Shockley, be denied, and that they be declared not citizens of the Choctaw Nation and not entitled to enrollment as such citizens, and not entitled to any rights whatsoever flowing therefrom."

On May 27, 1904, orders were entered of record by the Commission to the Five Civilized Tribes dismissing the applications for the enrollment of Corine West, Elva May Shockley, Herman Shockley, Mamie Shockley, Trevor M. Parker, Lucie P. Parker and William Leslie Parker as citizens by blood of the Choctaw Nation, for the reason that their parents through whom they claim their right to enrollment as citizens by blood of the Choctaw Nation

had been denied by a decree of the Choctaw and Chickasaw Citizenship Court.

On December 16, 1904, the applicant, Lula West, forwarded a petition to the President, praying him to cause an investigation to be made of the allegations contained in said petition, and if said allegations were found to be true, to cause her name to be placed upon the final roll of citizens by blood of the Choctaw Nation.

Said petition was on February 15, 1905, (I.T.D. 10353-1904) forwarded by the Department to the Commission to the Five Civilized Tribes with instructions to permit the petitioner to submit such testimony in support of her claim as she may see fit, and enclosed a copy of an opinion of the Assistant Attorney General for the Department of the Interior of February 10, 1905 (I.T.D. 10353-1904) wherein it was held that said Commission had jurisdiction to examine into the claimant's cause, and should adjudicate it upon its merits, regardless of the judgment of the Choctaw and Chickasaw Citizenship Court.

A motion for review was filed with the Department by the attorneys for the Choctaw and Chickasaw Nations, and on December 16, 1905, the Department (I.T.D. 6380-1905), forwarded a copy of an opinion of the Assistant Attorney General for the Department of the Interior of December 4, 1905 (I.T.D. 3693-1905), wherein he adhered to his former opinion rendered on February 10, 1905, and held that Lula West having on January 9, 1890, been admitted to citizenship in the Choctaw Nation by the Secretary of the Interior, the Commission to the Five Civilized Tribes had no jurisdiction under the act of June 10, 1896, to pass upon her rights, and the United States Court for the Central District of Indian Territory, and the Choctaw and Chickasaw Citizenship Court on appeal were also without jurisdiction. Copies of said opinion were forwarded the applicant Lula West, and her attorney of record on December 23, 1905.

Under the regulations adopted by the Commissioner to the Five Civilized Tribes on January 2, 1906, there was filed on January 22, 1906, by Thomas Norman, of Ardmore, Indian Territory, attorney for the petitioners, a petition verified by Lula West, and submitted on behalf of Lula West, F.M. West, Roy West, Marie West, Corine West, Elzora Shockley, Ethel Jones, (nee Shockley), Charles L. Shockley, Callie Shockley, Albert Shockley, Herman Shockley, Mamie Shockley, Herbert E. Shockley, E.M. Shockley, Ava Shockley, Mattie Shockley, Leverett Shockley, Elva May Shockley, Plasseo Shockley, Pauline Daniel (nee Shockley), Albert Shockley, Mattie L. Osborn (nee Shockley), Eddie Shockley, Lenora Parker (nee Shockley), Treva Myrtle Parker, Ludia Franklin Parker, William Leslie Parker and Albert R. Shockley, praying that they be enrolled as citizens of the Choctaw Nation.

All of the above petitioners, with the exception of Herbert E. and Plasseo Shockley, are identical with the applicants for whom application was made prior to December 25, 1902, for enrollment as citizens of the Choctaw Nation.

On February 8, 1906, the principal applicant petitioner, Lula West, her attorney, Thomas Norman of Ardmore, Indian Territory, and Messrs. Mansfield, McMurray & Cornish, attorneys for the Choctaw and Chickasaw Nations, of South McAlester, Indian Territory, were advised that the Commissioner to the Five Civilized Tribes would, at his office in Muskogee, Indian Territory, on Monday May 8, 1906, at four o'clock P.M. hear such testimony and receive such other evidence as might be submitted by the petitioners in support of their applications for enrollment as citizens of the Choctaw Nation and by the attorneys for the Choctaw and Chickasaw Nations.

By agreement of counsel the hearing in this case was continued from four o'clock P.M. on Monday, May 8, 1906, until seven o'clock, P.M. on the same day, at which time proceedings were had pursuant to the notices above mentioned.

It appears from the record herein that on July 15, 1899, on appeal from the adverse action of the Choctaw National Council, the United States Indian Agent, Lee M. Bennett, rendered a decision admitting John Shockley (now deceased), Mattie L. Shockley, William Shockley (now deceased), Elzora Shockley, Charles L. Shockley, Ephriam Shockley, Lula Shockley, and Robert Shockley to Choctaw Citizenship, said decision being on January 9, 1900, approved by the Secretary of the Interior. It is contended by the applicants herein that no such person as Robert Shockley ever existed; that the same was an error, and should have been Albert Shockley (now deceased), a son of John Shockley, the principal petitioner before the Indian Agent.

It further appears from the record herein that the principal applicant, Mattie Shockley, who was admitted by the Indian Agent as the wife of John Shockley, was on January 22, 1899, married to J.R. Osborn, a non-citizen white man; that John E. Shockley is a son of said Mattie Shockley and John Shockley, (now deceased), (admitted by the Indian Agent); that Lula West (admitted by the Indian Agent) is the daughter of John Shockley above mentioned, and Fatima Shockley (now deceased), a non-citizen white woman; that Roy, Marie and Corine West are the children of said Lula West and Felix K. West, an applicant herein, for enrollment as a citizen by intermarriage of the Choctaw Nation; that Ephriam E. Shockley (admitted by the Indian Agent) is the son of John Shockley and Fatima Shockley, above mentioned; that Mattie, Leverett and Elva May Shockley are the children of said Ephriam E. Shockley and Ava Shockley, an applicant herein for enrollment as a citizen by intermarriage of the Choctaw Nation; that Charles L. Shockley (admitted by the Indian Agent) is the son of John Shockley and Fatima Shockley above mentioned; that Albert, Wurnan, and Annie Shockley are the children of said Charles L. Shockley and Callie Shockley, an applicant herein for enrollment as a citizen by intermarriage of the Choctaw Nation; that Lenora Parker, was born about the year 1878, and is the daughter of William Shockley, deceased, (admitted by the Indian Agent) and Bettie Shockley (deceased), a non-citizen white woman; that Treva M. Ludie P., and William Lealie Parker are the children of said Lenora Park and W.I. Parker, a non-citizen white man; that Albert R. Shockley is the son of William Shockley and Bettie Shockley above mentioned; that the applicant Elzora Shockley, was by a decision of the Indian Agent admitted to Choctaw citizenship as the wife of William Shockley; that Ethel Shockley is the daughter of said Elzora Shockley and William Shockley, above mentioned; and that Albert P. Shockley was born in 1897 and is the son of Albert Shockley, (now deceased-who, (as Robert Shockley) was also admitted by the decision of the Indian Agent).

Upon an examination of the tribal rolls of the Choctaw Nation in the possession of this office, it appears that John E. Shockley, Lula West, Roy West, Ephriam E. Shockley, Mattie Shockley, Charles L. Shockley and Albert Shockley are identified upon the 1893 Choctaw Leased District Payment Roll, Chickasaw District, numbers 501, 501, 502, 498, 499, 497 and 500, respectively, enrolled thereon as citizens by blood of the Choctaw Nation.

It further appears from the record herein that the applicant, Felix K. West, was on August 20, 1899, under the laws of Tennessee, married to the applicant Lula West; that the applicant Ava Shockley was on July 30, 1890 lawfully married to the applicant Ephriam E. Shockley; that the applicant Callie Shockley was on December 10, 1893, lawfully married to the applicant, Charles L. Shockley; and that Pauline Shockley was on November 2, 1896, lawfully married to Albert Shockley, (now deceased), who (as Robert Shockley) was admitted to Choctaw citizenship by the decision of the Indian Agent.

It further appears from the record herein and from the records of the Commission to the Five Civilized Tribes that the applicants Felix K. West, Lenora Parker, Treva M. Parker, Ludie M. Parker, and William Leslie Parker, have never been enrolled by the Choctaw tribal authorities as members of the Choctaw tribe, or admitted to Choctaw citizenship by a duly constituted Court or committee of the Choctaw Nation, or by the United States Indian Agent, nor has the applicant, Felix K. West ever been married to the applicant Julia West, through whom he claims his intermarried rights by virtue of a license issued by the tribal authorities of the Choctaw Nation.

It further appears from the records herein that all the applicants herein, who were living at said time, with the exception of Elzora Shockley and Ethel Shockley were residents in good faith of Indian Territory on June 28, 1898.

As to the applicant Elzora Shockley, the evidence herein shows that she was born in the state of Arkansas and resided there continuously until 1886, when she removed to the Indian Territory where she resided until 1899; that thereupon she returned to the State of Arkansas, where she resided continuously until 1900; and that the applicant Ethel Shockley was born in the State of Arkansas in about the year 1891, and resided continuously therein with her mother, Elzora Shockley until 1900:

From the above it is considered that the applicants Elzora Shockley and Ethel Shockley, were not residents in good faith of Indian Territory on June 28, 1898, as provided by section 21 of the Act of Congress approved June 28, 1898 (30 Stat. 493).

It further appears from the record herein that on March 5 1906, application was made to the Commissioner to the Five Civilized Tribes for the enrollment of Plasse Shockley and Herbert E. Shockley as citizens by blood of the Choctaw Nation. The applicant Plasse Shockley was born on April 6, 1903, and is the daughter of the applicants Ephraim E. Shockley and Ava Shockley; and that the applicant Herbert E. Shockley was born June 15, 1903 and is the son of the applicants, Charles L. Shockley and Callie Shockley.

The Act of Congress approved March 3, 1905 (33 Stat. 1070) provides:

"That the Commission to the Five Civilized Tribes is authorized for sixty days after the date of the approval of this Act to receive and consider applications for enrollment of children born subsequent to September twenty-five, nineteen hundred and two, and prior to March fourth, nineteen hundred and five, and who were living on said latter date, to citizens by blood of the Choctaw and Chickasaw tribes of Indians, whose enrollment has been approved by the Secretary of the Interior prior to the date of the approval of this act; and to enroll and make allotments to such children."

I am of the opinion that inasmuch as the applicants, Plasse Shockley, and Herbert E. Shockley, are not the children of recognized and enrolled citizens by blood of the Choctaw Nation, whose enrollment has been approved by the Secretary of the Interior prior to March 3, 1905, I am now without authority to receive or consider their applications for enrollment as citizens by blood of the Choctaw Nation, and that the same should be dismissed without prejudice to the applicants, and it is so ordered.

I am of the opinion that the orders of the Commission to the Five Civilized Tribes of May 27, 1904, dismissing the applications for the enrollment of Corine West, Elva May Shockley, Euraan Shockley, Mamie Shockley, Treva M. Parker, Ludie M. Parker, and William Leslie Parker should be rescinded.

-4-

I am further of the opinion that in accordance with the opinions of the Assistant Attorney General for the Department of the Interior of February 10, 1906, (I.T.D. 10353-1904), and December 8, 1905 (I.T.D. 1093-1906), in the case of Lula West, that John N. Shockley, Lula West, Ray West, Marie West, Corina West, Ephraim N. Shockley, Mattie Shockley, Leverett Shockley, Elva May Shockley, Charles L. Shockley, Albert Shockley, Herman Shockley, Mamie Shockley, Albert R. Shockley and Albert P. Shockley, should be enrolled as citizens by blood of the Cheataw Nation, and that Mattie Osborn Ava Shockley, Gallie Shockley, and Pauline Shockley, should be enrolled as citizens by intermarriage of said Nation, under the provisions of the Act of Congress approved June 25, 1898 (30 Stat. 495) and July 1, 1902 (32 Stat. 641), and it is so ordered.

I am further of the opinion that the applications made for the enrollment of Felix K. West and Elzora Shockley as citizens by intermarriage of the Cheataw Nation, and the applications for the

enrollment of Lenora Parker, Treva M. Parker, Ledia F. Parker, William Leslie Parker and Ethel Shockley, as citizens by blood of said Nation should be denied, under the provisions of the Act of Congress approved June 25, 1898 (30 Stat. 495), and it is so ordered.

(Signed) Tamm Dixby,
Commissioner.

Muskogee, Indian Territory,
March 19, 1906.

7-8-51

COPY.

Muskogee, Indian Territory, May 4, 1906.

Pauline Shockley, now Daniel,
Rogers, Texas.

Dear Madam:

You are hereby advised that the Commissioner to the Five Civilized Tribes on March 19, 1906, rendered a decision in the matter of the application for the enrollment of Mattie Shockley et al. as citizens of the Choctaw Nation, consolidating the applications of

Mattie Shockley, et al.,	7-5238
Lula West, et al.,	7-5191
Ephriam E. Shockley, et al.,	7-5109
Charles L. Shockley, et al.,	7-5188
Lenora Parker, et al.,	7-5190
Albert R. Shockley,	7-5193
Elsora Shockley, et al.,	7-5189
Pauline Shockley, et al.,	7-D-51.

By this decision the application of yourself as a citizen by intermarriage and that of your minor son, Albert P. Shockley, as a citizen by blood of the Choctaw Nation was granted.

Respectfully,

Wm. C. Brown

Acting Commissioner.

Choctaw D 51

Muskogee, Indian Territory, June 1, 1904.

Mrs. Pauline Shockley,
Ardmore, Indian Territory,
Dear Madam:

Receipt is hereby acknowledged of your letter of May 23, in which you ask the status of your enrollment as an intermarried citizen and the enrollment of your son as a citizen by blood of the Choctaw Nation, and ask if you can have land reserved for you until your right is established.

In reply to your letter you are advised that the Commission has not yet passed upon your application for the enrollment of yourself as an intermarried citizen and for the enrollment of your son, Albert P. Shockley, as a citizen by blood of the Choctaw Nation. As soon as a decision is reached in this case you will be notified of the action taken therein.

You are informed that the Commission does not make reservations of land for citizens of the Choctaw and Chickasaw Nation or for applicants for enrollment as such. If, however, you have improvements upon land which you desire to select in allotment for yourself and your son, and will forward a description thereof by quarter section, township and range, telling whether the same is north or south of the base line and east or west of the Indian Meridian, proper

P 5 2

notation will be made upon our records of your claim to such land, and you will be notified in the event any other person makes application for the same land, and will be permitted to make formal application therefor for the purpose of instituting contest, if it is so desired,

Respectfully,

Chairman.

7-D-51

Wetkgee, Indian Territory, October 28, 1904.

Mrs. Pauline Shockley,

Box 49.

Ardmore, Indian Territory.

Dear Madam:-

Receipt is hereby acknowledged of your letter of October 24, 1904, in which you ask what action has been taken in the matter of the application for enrollment of yourself and your son as citizens of the Choctaw Nation.

In reply to your letter you are informed it appears from our records that the case of the Shockley family is now pending before the Choctaw and Chickasaw citizenship court and for information relative thereto you should address the clerk of that court, Tishomingo, Indian Territory.

Respectfully,

Chairman.

SPECIAL.

J.P.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

FHE

D.C. 2820-1907.
I.T.D. 25868-1906.
818-1907.

January 15, 1907.

LRS

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

Referring to departmental letters of January 9 and 14, 1907,
in the matter of the application for the enrolment of Mattie
Shockley et al., as citizens by blood of the Choctaw Nation,
you are advised that by direction of the President the case will
be submitted to the Attorney-General for his opinion. You will
suspend action relative to these claimants until further advised.

Respectfully,

Thos Ryan
First Assistant Secretary.

D. C. 10915-1907.

JP.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

LIR

February 23, 1907.

I. T. D. 4564-1907.

L. R. B.

Direct.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

Confirming telegram of this date, as follows--

"You are directed to inspect the partial rolls of citizens of the Choctaw and Chickasaw nations to determine what persons have been enrolled thereon contrary to the views expressed by the Attorney-General in opinion of February 19, copy sent you this day, and whose names should be stricken therefrom. You will furnish the Department a list of such names with roll numbers, and give such information that it may readily determine whether such names should be stricken from the rolls. This information should reach the Department before March first. Take like action relative to the rolls of the Cherokee and Creek nations.

It was held in such opinion, among other things, that the decisions of the Commission under act of 1896, not appealed from, were final, and that the decisions of the Choctaw and Chickasaw Citizenship Court were final, whether claimant's name was on tribal rolls or not.

Decisions of the Department, based upon opinions of the Assistant Attorney-General, in favor of claimants in the cases of Loula West et al., William C. Thompson et al., and Richard B. Coleman et al. are rescinded in letter to you of this day. The decision of the Department in the Ethel Pierson case, minor child of a Choctaw freedman, is sustained in the opinion of the Attorney-General.

E. A. Hitchcock,
Secretary."

a copy of the opinion of the Attorney-General referred to therein is inclosed, and you are directed to strike the names of the claimants in the Choctaw enrollment cases of Loula West et al., if enrolled; William C. Thompson et al., and Richard E. Coleman et al. from the partial roll of citizens of the Choctaw Nation, as of this date, referring to this letter as your authority. Advise the Department of your action, giving roll numbers, etc., in order that the parts of the rolls in the possession of the Department and the Indian Office may be made to show the cancellation.

In accordance with said opinion, the enrollment of Cyrus H. Kingsbury and Lucy E. Littlepage will be allowed to stand. The patent in favor of Cyrus H. Kingsbury received with your letter of March 10, 1896, has been approved and is inclosed.

As soon as practicable you will advise the Department relative to the status of any land, whether patented, etc., that may have been selected by any person hereby stricken from the rolls or to be stricken from such rolls, and make such recommendations as to the course that should be pursued concerning such tracts as you deem proper.

A carbon copy hereof has been sent to the Indian Office.

Respectfully,

E. A. Hitchcock,

Secretary.

2 inclosures.

REFER IN REPLY TO THE FOLLOWING:

7-6035.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, March 16, 1907.

Pauline Shockley,
Rogers, Texas.

Dear Madam:

You are hereby advised that in accordance with an opinion of the Attorney General of the United States of February 19, 1907, the secretary of the Interior, on February 23, 1907, reversed the decision of the commissioner to the five Civilized Tribes of March 19, 1906, granting the application for your enrollment as a citizen by intermarriage of the Choctaw Nation, and the application for the enrollment of your son, Albert P. Shockley, as a citizen by blood of said nation, and disapproved the schedules of citizens by blood and intermarriage of the Choctaw Nation upon which the names of Pauline Shockley and Albert P. Shockley appear.

Respectfully,

Commissioner.

D.O.M.
G.W.W.
File 5-51.
D
6476

J.W.H.
J.W.H.
W.C.P.
J.W.L.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

March 1, 1909

Serial-- 17077
Office of Ind. Affairs
Rec. March 3-1909.

The Commissioner
to the Five Civilized Tribes.

Sir:

January 25, 1909, you were advised that the names of certain persons were inadvertently included in Departmental letter of January 19, 1909 (File 5-51); that such mistake was due to the fact that it was supposed they were enrolled upon schedules approved by the Department, when in fact, the only schedules upon which their names appear were disapproved, and that no action should be taken under the circumstances looking to the erasure of interlineations or notations, if any, from the disapproved schedules, in connection with their names.

The names of the persons referred to in said letter of January 25, 1909, are as follows:

Chestaw by Flood.

Roll No.

16103

Elizabeth Allen.

16112
16110
16106
16111
16105
16107
16108
16109
921
922
16114

George A. Fungarnet.
Leutitia Crutchfield.
Everett Crutchfield.
George W. Crutchfield.
Ida Crutchfield.
Ima Crutchfield.
Louvinia Crutchfield.
William Crutchfield.
Josephine LaFlere Long.
Jake LaFlere Long.
David Ritter.

It now appears from the records of the Secretary's Office that there was a schedule approved May 21, 1904, by the Secretary of the Interior, and that the approval then given was cancelled by said Secretary at a later date, to-wit, June 28, 1904.

The name of Elizabeth Allen appears upon the schedule which was approved May 21, 1904, opposite the number 15551. Ida Crutchfield's name appears opposite No. 15553, while the other members of the Crutchfield family were given the numbers immediately following that assigned to her.

You are requested to cause a report to be prepared showing whether the records of your Office also show that an earlier schedule containing the names of said persons was approved May 21, 1904; also whether such approval was cancelled June 28, 1904. Please report also the reason for the attempted cancellation, and whether prior notice was given thereof.

It appears further that, in connection with the names of Elizabeth Allen and the Crutchfield family on the roll approved May 21, 1904, the names of Ardella Hickman, Ida M. Southard and Grover Randall are also to be found.

In connection with said names, it is desired that you will report what action, in your opinion, should be taken concerning the first of said persons; also whether the said Ida M. Southard and Grover Randall, respectively, are identical with the Ida M. Southard whose name appears opposite No. 15380 in the printed rolls of citizens by blood of the Choctaw Nation, and the Grover Randall whose name appears on page 8 of Departmental letter of January 19, 1909 (File 5-51), opposite No. 15923.

As appears from the above list, there were other persons besides the said Allen and Crutchfield whose names were enrolled on schedules which were finally disapproved by the Department; for example, George A. Bumgarner, Josephine Laflore Long and Jake Laflore Long.

Please report whether the names of these persons appear upon any prior approved schedule; also why it was that the Commissioner to the Five Civilized Tribes enrolled them upon the schedule which was disapproved by the Department, showing whether the Commissioner enrolled them thereon, of his own motion, or under decision or instructions from the Department.

By comparison of the roll approved No. 21, 1904, with the printed rolls of Choctaws by blood, the Department finds that the numbers appearing thereon opposite the names of said persons were subsequently assigned to other citizens of the Choctaw Nation; thereby the series of roll numbers was kept perfect, but a material portion of the rolls was evidently sacrificed upon the supposition that it had become

worthless. Inquiry arises in this connection as to whether there were other approved schedules which were subsequently disapproved and thrown aside. Accordingly, it is desired that you also cause a report to be prepared covering this feature of the matter, showing all persons embraced in similar cases, with recommendation as to what action should be taken as to them. This will necessitate a statement as to why their names were stricken or cancelled from the rolls, and whether such action was taken without prior notice.

There is still another matter concerning which the Department desires report to be made. It is observed that the words "No person enrolled at this number" are to be found not infrequently opposite consecutive numbers on the pages of the printed rolls; and you are requested to advise the Department whether such words were substituted for the names of individuals appearing on disapproved schedules, and if such is the case, whether such disapproved schedules were approved at any time by the Department; also whether favorable decisions were ever rendered by the Department as to such persons prior to their enrollment upon such disapproved schedules.

For the sake of expedition, a partial report should be rendered at once concerning the said Elisabeth Allen and the various members of the Crutchfield family named above. The other matters referred to herein can be disposed of by subsequent reports.

Very respectfully,
Jesse E. Wilson,
Assistant Secretary.

Through the
Indian Office.

On 10/10/1941
letter to the
persons
involved
of the
4-11.

Land

88226-08

17077-08

J B R

K B H
K B H

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS.

WASHINGTON, D.C.,-----March 6 -09

Respectfully referred to the Commission
to the Five Civilized Tribes, for
appropriate action.

John Francis, Jr.
Acting Chief Land Division.

1 Letter
dated Feb. 1, 09.

D 301-1909

Muskogee, Oklahoma, April 14, 1909.

Subject:

Reporting on Departmental
letter of March 2, 1909,
as to case of Mattie Shockley,
et al. analogous to case
of Minerva F. Swadley, et al.

The Honorable,

The Secretary of the Interior.

Sir:

Receipt is hereby acknowledged of Departmental letter of
March 2, 1909 (File 5-51) asking for reports on certain Choctaw
cases analogous to the case of Minerva F. Swadley, et al. and
directing that the report be made in the form of answers to
questions one to five inclusive in Departmental communication
of February 25, 1909, relative to Mattie L. Armstrong, and
that instead of question six the report should state whether
any attempt was made, directly or indirectly, to give notice
of the rescinding of Departmental decision favorable to the
applicants.

Reference is also made to Departmental letter of March 1,
1909 (File 5-51) asking for reports on the cases of all persons
whose names appear on schedules of Choctaws and Chickasaws
which were disapproved by the Department.

Secretary 2

I have the honor to state that the case of Mattie Shockley, et al. (Loula West case) is one of the cases included in both Departmental letters above referred to, and to report therein as follows:

It appears from the records of this office that on September 9, 1896, in the case entitled F. K. West, et al. versus the Choctaw Nation, 1896 Choctaw Citizenship Case Number 965, original application was made to the Commission to the Five Civilized Tribes under the provisions of the Act of Congress approved June 10, 1896 (29 Stat., 321) for admission of the applicants, Mattie Shockley (as Mattie L. Shockley), Felix K. West (as F. K. West), Ava Shockley, Callie Shockley and Elzora Shockley as citizens by intermarriage of the Choctaw Nation, and John E. Shockley (as Eddie Shockley), Lula West, Ray West, Ephriam E. Shockley, Mattie Shockley, Leverett Shockley, Charles L. Shockley, Albert Shockley, Lenora Parker (as Nora Parker), Albert H. Shockley (as Albert Shockley) and Ethel Shockley as citizens by blood of the Choctaw Nation; that on December 5, 1896, the Commission admitted the above applicants as citizens of the Choctaw Nation.

From this decision an appeal was taken by the Choctaw Nation to the United States Court for the Central District of Indian Territory, which court, in case Number 226 on the Citizenship Docket, affirmed the decision of the Commission admit-

Secretary 3

ting these applicants to citizenship in the Choctaw Nation.

On December 17, 1902, the Choctaw and Chickasaw Citizenship Court, created under the provisions of the Act of Congress approved July 1, 1902 (32 Stat., 441) "set aside, annulled, vacated and held for naught" the aforesaid judgment of the United States Court for the Central District of the Indian Territory. Thereafter the record in this case was certified to the Choctaw and Chickasaw Citizenship Court for a trial de novo, and this court, on March 21, 1904, in the case of F. K. West, et al. versus the Choctaw and Chickasaw Nations, Number 42 on the South McAlester Docket of said court, ordered, adjudged and decreed that all these applicants be denied and declared not citizens of the Choctaw Nation, and not entitled to enrollment as such citizens, or to any rights whatever flowing therefrom.

May 27, 1904, orders were entered of record by the Commission to the Five Civilized Tribes, dismissing the applications for the enrollment of Corine West, Elva May Shockley, Hurman Shockley, Mamie Shockley, Trevor M. Parker, Ludie F. Parker and William Jessie Parker as citizens by blood of the Choctaw Nation for the reason that their parents had been denied enrollment by a decree of the Choctaw and Chickasaw Citizenship Court.

December 16, 1904, Lula West, one of the applicants in this case, forwarded a petition to the President, praying him

Secretary 4

to cause an investigation to be made of the allegations contained in said petition, and if the same were found to be true, to cause her name to be placed upon the final roll of citizens by blood of the Choctaw Nation.

This petition was on February 16, 1905 (I T D 10353-1904) forwarded by the Department to the Commission to the Five Civilized Tribes with instructions to permit the petitioner to submit such testimony in support of her claim as she might see fit and enclosed a copy of an opinion of the Assistant Attorney General for the Department of the Interior of February 10, 1905, wherein it was held that said Commission had jurisdiction to examine into the claimants' cause, and should adjudicate it upon its merits, regardless of the judgment of the Choctaw and Chickasaw Citizenship Court.

A motion for review was filed with the Department by the Attorneys for the Choctaw and Chickasaw Nations, and on December 13, 1905 (I T D 6380-1905) the Department forwarded a copy of an opinion of the Assistant Attorney General for the Department of the Interior of December 8, 1905 (I T D 3693-1905), wherein he adhered to his former opinion rendered February 10, 1905, and held that Lula West having on January 9, 1890, been admitted to citizenship in the Choctaw Nation by the Secretary of the Interior, the Commission to the Five Civilized Tribes had no jurisdiction under the Act of Congress of

Secretary 5

June 10, 1896, to pass upon her rights, and the United States Court for the Central District of Indian Territory, and the Choctaw and Chickasaw Citizenship Court on appeal were also without jurisdiction. Copies of this opinion were forwarded the applicant, Lula West, and her attorney of record on December 23, 1905.

Under the regulations adopted by the Commissioner to the Five Civilized Tribes January 2, 1906, there was filed on January 22, 1906, by Thomas Norman, of Ardmore, Indian Territory attorney for the petitioners, a petition verified by Lula West, and submitted on behalf of Lula West, F. K. West, Roy West, Marie West, Corine West, Elzora Shockley, Ethel Jones, nee Shockley, Charles L. Shockley, Callie Shockley, Albert Shockley, Herman Shockley, Mamie Shockley, Herbert E. Shockley, E. E. Shockley, Ava Shockley, Mattie Shockley, Lev-erett Shockley, Elva May Shockley, Flossie Shockley, Pauline Daniel, nee Shockley, Albert Shockley, Mattie L. Osborn, nee Shockley, Eddie Shockley, Lenora Parker, nee Shockley, Treva Myrtle Parker, Ludie Franklin Parker, William Leslie Parker, and Albert R. Shockley, praying that they be enrolled as citizens of the Choctaw Nation.

All parties in interest were notified and a hearing was had in this case March 5, 1906.

Secretary 6

It appears from the record in this case that on July 15, 1889, on appeal from the adverse action of the Choctaw National Council, the United States Indian Agent, Leo E. Bennett, rendered a decision admitting John Shockley, now deceased, Mattie L. Shockley, William Shockley, now deceased, Elzora Shockley, Charles L. Shockley, Ephriam Shockley, Lula Shockley and Robert Shockley to Choctaw citizenship, said decision being on January 9, 1890, approved by the Secretary of the Interior.

The applicants contended that no such person as Robert Shockley existed; that this was an error and should have been Albert Shockley, now deceased, a son of John Shockley, the principal petitioner before the Indian Agent.

Upon an examination of the tribal rolls of the Choctaw Nation in the possession of this office, the names of John E. Shockley, Lula West, Roy West, Ephriam E. Shockley, Mattie Shockley, Charles L. Shockley and Albert Shockley are identified upon the 1893 Leased District Payment Roll of the Choctaw Nation, Chickasaw District, Numbers 501, 581, 582, 498, 499, 497 and 500 respectively.

March 19, 1888 1906, the Commissioner to the Five Civilized Tribes rendered an opinion which rescinded the orders of the Commission to the Five Civilized Tribes of May 27, 1904, dismissing the applications for the enrollment of Gerine West, Elva May Shockley, Herman Shockley, Mamie Shockley, Trevor M.

Secretary 7

Parker, Ludie P. Parker and William Leslie Parker, and, in accordance with the opinions of the Assistant Attorney General for the Department of the Interior of February 10, 1905 (I T D 10353-1904) and December 8, 1905 (I T D 3693-1905) in the case of Lula West (Loula West), held that John E. Shockley, Lula West, Roy West, Marie West, Corine West, Ephriam E. Shockley, Mattie Shockley, Leverett Shockley, Elva May Shockley, Charles L. Shockley, Albert Shockley, Hurman Shockley, Mamie Shockley, Albert R. Shockley and Albert F. Shockley should be enrolled as citizens by blood of the Choctaw Nation, and that Mattie Osborn, Ava Shockley, Callie Shockley and Pauline Shockley should be enrolled as citizens by intermarriage of said Nation, under the Acts of Congress approved June 28, 1898 (30 Stat., 495) and July 1, 1902 (32 Stat., 641).

The Commissioner further held that the applications made for the enrollment of Felix K. West and Elzora Shockley as citizens by intermarriage of the Choctaw Nation and the applications for the enrollment of Lenora Parker, Trever M. Parker, Ludie P. Parker, William Leslie Parker and Ethel Shockley as citizens by blood of said nation should be denied under the provisions of the Act of Congress approved June 28, 1898.

The applicants, Plasse Shockley and Herbert E. Shockley, not being the children of recognized and enrolled citizens by

Secretary 8

blood of the Choctaw Nation whose enrollment had been approved by the Secretary of the Interior prior to March 3, 1906, the applications for their enrollment as citizens by blood of the Choctaw Nation were dismissed without prejudice.

May 4, 1906, notice of this decision was forwarded the parties in interest by registered mail, and on the same date the original record in this case, together with the decision of March 19, 1906, was transmitted to the Department.

May 9, 1906, Thomas Norman forwarded a statement of exceptions to the decision in this case, in so far as it pertained to certain persons who were denied therein, and requested that the same be transmitted to the Secretary of the Interior, which was done May 14, 1906.

December 22, 1906 (Land 40199, 42796-1906) the Indian Office recommended that the decision of the Commissioner of March 19, 1906, be affirmed, and that, in the event the Department did affirm this decision, the Commissioner to the Five Civilized Tribes be directed to enroll the applicants, Plasse and Herbert E. Shockley, under Section two of the Act of Congress approved April 26, 1906 (34 Stat., 137). January 9, 1907 (I T D 25863-1906) the Secretary of the Interior affirmed the decision of the Commissioner to the Five Civilized Tribes of March 19, 1906, and directed that the office proceed with the adjudication of the claims of Plasse Shockley and

Secretary 9

Herbert E. Shockley under legislation enacted subsequent to the decision of March 19, 1906.

January 14, 1907 (I T D 25864-1906) this office was directed by the Department not to promulgate the decision of January 9, 1907 in this case and to return it at once direct to the Department as the parties in the case were not to be enrolled unless further advised by the Secretary of the Interior.

January 15, 1907 (I T D 818-1907) this office was advised, with reference to Departmental letters of January 9 and January 14, 1907, in the matter of the application for the enrollment of Mattie Shockley, et al. as citizens by blood of the Choctaw Nation, that, by direction of the President, the case would be submitted to the Attorney-General for his opinion and that no further action should be taken relative to these claimants until this office was further advised.

January 17, 1907, this office acknowledged receipt of Departmental letters of January 14, 1907 and January 15, 1907 and in conformity with the request of the Department, the communication of January 9, 1907, affirming the decision of the Commissioner to the Five Civilized tribes of March 19, 1906, in the Choctaw enrollment case of Mattie Shockley et al., together with the report of the Acting Commissioner of Indian

Secretary 10

Affairs of December 22, 1906, was returned direct to the Department.

February 23, 1907 (I T B 4544-1907) this office was directed by telegram from the Department, which was subsequently confirmed by letter of the same date, to inspect the partial rolls of citizens of the Choctaw and Chickasaw Nations to determine what persons were enrolled thereon contrary to the views expressed by the Attorney-General in his opinion of February 19, 1907. The office was further advised in said telegram that decisions of the Department, based upon opinions of the Assistant Attorney-General in favor of claimants in certain cases, among which was Loula West, et al., were rescinded.

February 12, 1907, there were transmitted for the consideration of the Department, schedules of citizens of the Choctaw Nation, as follows:

Citizens by blood	Nos. 16160 to 16174 inclusive
Citizens by marriage . .	Nos. 1646 to 1649 inclusive
Minor citizens by blood..	Nos. 919 to 920 inclusive

These schedules were composed of the persons who had been admitted by the Commissioner to the Five Civilized Tribes in his decision of March 19, 1906, in the case of Mattie Shockley et al, and Herbert H. Shockley and Flossie Shockley, whose names were scheduled without decisions in accordance with the provisions of the Act of Congress approved April 26, 1906.

Secretary 11

Inasmuch as the time within which persons could be enrolled and their enrollment approved by the Secretary of the Interior under the provisions of the Act of Congress approved April 26, 1905, was becoming very short, the schedules above described were prepared at this office without waiting for the opinion of the Attorney-General and were forwarded to the Department, in order that, if the opinion of the Attorney General were favorable to their contention, the rights of these applicants might be protected by the Department without delay.

February 27, 1907, referring to Departmental letter of February 23, 1907, authorizing this office to cancel the enrollment of the persons included in the case of Loula West, et al. this office transmitted reported that the schedules above referred to had been transmitted to the Department on February 12, 1907, and recommended that the decision of March 19, 1906, be not approved and that the schedules containing the names of the persons included in this decision be disapproved by the Department.

February 26, 1907 (I T D 1402-1907) the Department, in view of the opinion of the Attorney-General of February 19, 1907, in the case of Loula West et al., rescinded its decision of January 9, 1907, in favor of the claimants in the case of Mattie Sheekley et al. and reversed the decision of this of-

Secretary 12

fice of March 19, 1906, favorable to the applicants.

March 1, 1907 (I T D 5680, 5684-1907) the Department advised this office that the schedules containing the names of the parties applicant in the case of Mattie Shockey et al. (Loula West case) had been disapproved. A report of the Indian Office of February 28, 1907 (Land 16776-1907) was also transmitted.

March 16, 1907, the parties in interest in this case were advised of the action of the Department reversing the decision of the Commissioner of March 19, 1906 as to the persons admitted therein and affirming it as to the persons denied by said decision.

Inasmuch as the persons included in this case were never upon the approved rolls no certificates of allotment were issued to them. Contests were filed by them, but were dismissed after the action of the Department in denying their applications.

I have further to report that it does not appear from the records of this office that any attempt was made, directly or indirectly, to give the above named applicants notice of the proceedings looking to the rescinding of the decision of the Secretary of the Interior in their case.

Inasmuch as the record in this case is very full and complete, and it is believed that the applicants could not

Secretary 13

add anything thereto, this office has not forwarded to them notices as referred to in Departmental letter of March 15, 1909, relative to applications for restoration to citizenship status in the Five Civilized Tribes, and will withhold such action unless it is the wish of the Department that the same should be furnished these applicants.

However, if it is desired that the notices be forwarded, or if it is the wish of the Department that the parties applicant in cases of this character should be notified to have their attorneys submit written argument as to their contention that their case falls within the principles of the opinion of the Supreme Court in the Goldsby and Allison cases, this office will proceed to notify the applicants to this effect immediately upon receipt of advice from the Department, and will make supplemental report after their replies have been received.

Respectfully,

Commissioner.

Through the Commissioner
of Indian Affairs.

AB

Muskogee, Oklahoma, January 5, 1910.

Mrs. Pauline Shockley,

Rogers, Texas.

Madam:

Referring to the Choctaw enrollment cases of Mattie Shockley, et al. and Lulu West, et al., you are advised that on December 7, 1909, the Department held that no further action could or should be taken looking to the enrollment of the applicants therein.

Respectfully,

Acting Commissioner.

McM

251

151

Choctaw 6036
Ada McLellen

Trans. August 27, 1906

6036

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment as a
citizen by intermarriage of the Choctaw Nation of.....

ADA McLELLAN.....Memo.-280.

Memorandum 1220

Department of the Interior,
Commissioner to the Five Civilized Tribes.
Muskogee, Indian Territory, May 22, 1906.

In the matter of the alleged application for the enrollment of Ada McLellan as a citizen by intermarriage of the Choctaw Nation, prior to December 1, 1905.

ADA McLELLAN, being first duly sworn, testified as follows:

Examination by the Commissioner:

- Q What is your name? A Ada McLellan.
Q How old are you? A I am twenty-nien years old.
Q What is your post office address? A Ashland.
Q What nation? A Choctaw.
Q Do you claim that application was made for your enrollment as a citizen by intermarriage of the Choctaw Nation prior to December 1, 1905? A Yes sir.
Q What was the nature of that application; how was it made?
A I don't know.
Q Did you ever personally appear before the Commission or Commissioner to the Five Civilized Tribes and make application for enrollment? A No sir.
Q Do you know whether anybody personally appeared before the Commission or Commissioner for the purpose of making application for your enrollment? A No sir.
Q You don't know anything about how application was made for you?
A No sir.
Q Through whom do you claim your right to enrollment as an inter-married citizen? A Joseph M. McLellan.
Q Is he an enrolled citizen of the Choctaw Nation? A Yes sir.

Joseph M. McLellan is identified upon the approved roll of citizens by blood of the Choctaw Nation at number 15324, Choctaw Roll card, No. 3922.

- Q When were you married to this man? A January 7th, 1892.

By Mr. Franklin, attorney for the applicant:

- Q You mean 1902? A Yes sir.

By Commissioner:

- Q By whom were you married to him? A Barnett; I forget his initials.
Q Minister of the Gospel? A Yes sir.

- Q Where did this marriage take place? A Chickasaw Nation, Pontotoc.
- Q Pontotoc County or post office? A Pontotoc County.
- Q Were you married under a license? A Yes sir.
- Q Was that a United States or a tribal license? A United States.
- Q Is your marriage license and certificate on file with the Commission? Have they been sent it? A I don't know.
- Q Have you any children? A Yes sir.
- Q What are their names? A Clara D. and Samuel J.
- Q How old are they? A Clara D. was born December 3, 1902.
- Q When was the other born, Samuel J.? A January 4, 1905.
- Q Application has been made for the enrollment of these two children has it not? A Yes sir.
- Q Did you make out any affidavits relative to their birth? A Yes sir.
- Q When did you make application for the enrollment of these children or make out those affidavits, do you know? A I don't know.
- Q Where did you make out those affidavits? A Atoka.
- Q Whereabouts at Atoka? A Land Office.

(Witness excused.)

JOSEPH M. McLELLAN, being first duly sworn, testified as follows:

Examination by the Commissioner:

- Q What is your name? A Joseph M. McLellan.
- Q How old are you? A Twenty-five.
- Q What is your post office address? A Ashland.
- Q Chickasaw Nation, Indian Territory? A Choctaw.
- Q Are you a citizen by blood of the Choctaw Nation? A Yes sir.
- Q Your name appears upon the final roll as approved by the Secretary? A Yes.
- Q What is the name of your wife? A Ada McLellan.
- Q Is she the woman who has just testified? A Yes sir.
- Q When were you married to her? A 7th day of January, 1902.
- Q Where was this marriage performed? A It was in the Chickasaw Nation on the Blue about five miles from Franks post office, Pontotoc County.
- Q Was there a license obtained? A Yes sir.
- Q United States or tribal? A United States.
- Q Do you claim that application was made for the enrollment of your wife as a citizen by intermarriage of the Choctaw Nation prior to December 1, 1905? A No.
- Q You don't? A No, nothing only the marriage certificate are on file.
- Q Did you ever personally appear before the Commission to the Five Civilized Tribes and make application for her enrollment before this present time? A No.
- Q As far as you know, did anybody personally appear before the Commission or the Commissioner to the Five Civilized Tribes and make application for the enrollment of your wife? A No. She answered that "yes", but she didn't understand it.

- Q Do you claim that any other kind of an application was made for the enrollment of your wife? A No.
- Q Was the marriage license and certificate of marriage of your wife and yourself filed with this office? A Yes sir.
- Q When was that filed, do you know? A The 14th day of March, 1905, I think that is correct.
- Q Have you got any children? A Got two.
- Q What are their names? A Clara D. and Samuel J. McLellan.
- Q Have these children been enrolled? A Yes sir.
- Q Were you present when application was made for the enrollment of these children? A Yes sir.
- Q Where was that application made? A Land Office at Atoka, before the Chief Clerk.
- Q Did your wife at that time swear to affidavits of the birth of these children? A Yes sir.
- Q She was present there before the land office also, was she? A Yes sir.
- Q You never attempted to make application for the enrollment of your wife prior to December 25, 1902, did you? A No, nothing only what I said at McAlester when I went down there, and they said I couldn't do anything until I was enrolled.
- Q Did you never appear before the Commission or write to them or take any other steps prior to December 25, 1902? A No, nothing before that.

There are on file in this office in the matter of the application for the enrollment of Clara D. and Samuel J. McLellan, marriage license and certificate of marriage of Joseph M. McLellan to Ada Skaggs on January 7, 1902. Filing stamp on said certificate shows that it was filed in the office of the Commission to the Five Civilized Tribes on March 23, 1905. There is also on file in the matter of the enrollment of these two children birth affidavits executed by Ada McLellan and Kittie McLellan, which, from the filing stamps upon the same, indicate that they were filed on March 20, 1905.

- Q Do you claim ever to have taken any other steps in the matter of your wife's right to enrollment? A No, nothing only that one letter I wrote the Commission.
- Q When did you write a letter of the Commission? A Why, 1904.
- Q Do you know the time any closer than that? A No.
- Q Is that the letter to which you refer? A Yes.

The applicant is handed copy of a letter received by the Commission to the Five Civilized Tribes on July 5, 1904, which is dated Kiowa, Indian Territory, July 2, 1904, and signed "Joseph M. McLellan". A copy of the same is attached to this record.

- Q Did you ever write any other letters to the Commission or Commissioner about this matter? A No.
- Q Did you ever have anybody else write any letters about it? A No.

Reference is made to a letter received by the Commission to the Five Civilized Tribes on October 5, 1905, dated South McAlester, Indian Territory, October 4, 1905, and

signed "J. V. Arnold", and letter signed by the same party addressed to the Honorable Secretary of the Interior dated South McAlester, Indian Territory, September _____, 1905. Copies of these two letters attached to the record herein.

- Q Do you know of any other steps which you have taken in the matter of your wife's enrollment? A No.
- Q When were you married to this woman? A 7th day of January, 1902.
- Q She is a white woman is she; a citizen of the United States?
- A Yes sir.
- Q Were you ever married before your marriage to her? A No sir.
- Q Was she ever married before her marriage to you? A Yes.
- Q How many times before? A Once.
- Q What was the name of her former husband? A Skaggs.
- Q What was his full name, do you know? A James Skaggs.
- Q Was he a white man? A Yes sir.
- Q Was he dead at the time of her marriage to you? A Yes sir.
- Q What was your wife's maiden name? A Dobbins.
- Q Do you know the name of her father? A Jim Dobbins.
- Q Do you know the name of her mother? A Catherine Dobbins.
- Q Both of them white persons? A Yes sir.
- Q Are both of them living? A No, her father is not living.
- Q Her mother is living? A Yes sir.
- Q Where were you living at the time of your marriage to this woman?
- A Chickasaw Nation.
- Q What place? A Out on the Blue about five miles southwest of Franks post office.
- Q Where was your wife, Ada Skaggs, living at that time of her marriage? A In just about a mile of where I was.
- Q How long had she been living there at the time of your marriage?
- A Little over a year.
- Q You were married by a minister of the Gospel? A Yes sir.
- Q What was his name? A E. A. Barnett.
- Q You were married under a United States license, I believe you said?
- A Yes sir.
- Q You never obtained any license from the tribal authorities?
- A No.
- Q Since your marriage to this woman have you continuously lived together as husband and wife? A Yes sir.
- Q Still living together are you? A Yes.
- Q These two children whose names you have given are the only children you have? A Yes sir, only two step children.
- Q Two step children are your wife's children by a former husband, are they? A Yes sir.

By Mr. Franklin, attorney for the applicant:

- Q Mr. McLellan, at the time you wrote this letter to the Commission on July 2, 1904, did you intend by that letter to make application for the enrollment of your wife if none had already been made? A Yes sir.
- Q I notice that these affidavits filed in the matter of the enrollment of your children, the affidavit of your wife states that she is a citizen of the United States. When you went before the Chief Clerk at the land office, did you claim that your wife was a citizen by marriage of the Choctaw Nation or a citizen of the United States? A United States.

- Q Because she hadn't then been enrolled? A Yes sir.
Q And prior to that time the Commission had told you---

By the Commissioner:

Mr. Franklin, please do not put the answer in the witness's mouth.

By Mr. Franklin:

- Q What answer did the Commission make to this letter you wrote?
A I don't recollect just the answer, but the way the answer was, said that there was no chance for her at that time.
Q No chance for her enrollment at that time, I understand?
A No sir.

(Witness excused.)

ADA McLELLAN, being recalled, testified as follows:

Examination by the Commissioner:

- Q Do you claim whatever right you may have to enrollment as an intermarried citizen of the Choctaw Nation by reason of your marriage to Joseph M. McLellan? A Yes sir.
Q When was that marriage performed? A January 7th, 1892.
Q 1902? A Yes sir.
Q Were you married prior to your marriage to this man, Joseph M. McLellan? A Yes sir.
Q How many times before? A Only once.
Q What was the name of your former husband? A James Skaggs.
Q He was a white man was he? A Yes sir.
Q Was he dead at the time of your marriage to Mr. McLellan?
A Yes sir.
Q When did James Skaggs die? A 2nd of March, I don't know what year.
Q How many years before you married Mr. McLellan? A Two years.
Q What is the name of your father? A Jim Dobbins.
Q He is a white man? A Yes sir.
Q Is he living or dead? A He is dead.
Q What is the name of your mother? A Catherine Dobbins.
Q Is she a white woman? A Yes sir.
Q Is she living or dead? A She is living, but her name is Thompson, now.
Q Where were you living at the time you married Mr. McLellan?
A I was living in the Chickasaw Nation, Pontotoc County, Franks post office.
Q How long had you been living there? A About a year.
Q Where did you live before that? A Burneyville in the Chickasaw Nation.
Q How long did you live there? A I lived there about eight years.
Q You were married to Mr. McLellan under a United States licence, were you not? A Yes sir.

- Q Have you lived with him continuously since your marriage?
A Yes sir.
Q Still living with him at the present time? A Yes sir.
Q Are these two children whose names you have given the only children you have by Mr. McLellan? A Yes sir.
Q They are both living at the present time? A Yes sir.

(Witness excused.)

Lenora B. Ashton, as stenographer to the Commissioner to the Five Civilized Tribes, on oath states that she reported the testimony taken in the above entitled cause on the 22nd day of May, 1906, and that the above and foregoing is a true and complete translation of her stenographic notes.

Lenora B. Ashton

Subscribed and sworn to before me this 23rd day of May, 1906.

Walter H. Chappell
Notary Public.

C O P Y.

Kiowa, I. T. 7/2/04

Commission to five Civilized tribes

Muskogee I. T.

You will please advise me if the name my wife Ada McLelan appears on the rolls as an intermarried Citizen of the Choctaw Nation, and if not she can yet be placed thereon. My wife and myself were married January 7th 1902. I still have marriage certificate as proof of same.

Respectfully,

Joseph M. McLelan.

Commission to Five Tribes.

No. 22668-1904.

Received Jul. 5, 1904.

C O P Y.

South McAlester, I. T.

Sept th 1905.

Hon Secretary of the Interior

Washington D. C.

Dear Sir:

I am in receipt of a letter from the Commission to five Civilized Tribes at Muskogee I. T. dated September 14th 05 with reference to the enrollment of Ada McLellan by intermarriage to Joseph M. McLellan enrolled Choctaw Citizen by blood which he states his office is without authority to enroll said Ada McLellan by Inter-Marriage. Records will show thus Catherine Thompson made application for Citizenship by Blood of the Choctaw Tribes of Indians, and in said application enlisted her childrens and Ada Scaeks name appered in the application and on Jan 7th 1902 Ada Scaeks married Joseph M. McLellan a enrolled Citizen by Choctaw Blood.

and being ignorant of the law as to enrollment waited untill April 1905 before notifying the Commissioner of her accts basseing her application under her Parents petition which was Denied by the Choctaw Chickasaw Citizenship Court.

She now asks to be permitted to make proff of her Marriage before the Commissioner to the five Civilized Tribes as to her Marriage in to the Choctaw tribe of Indians and enrollment which she now trust in your office

Truly yours.

J. N. Arnold

For Ada McLellan

South McAlester I.T.

Commissioner to Five Tribes.
No. 45293-1905.
Received Sep. 29, 1905.

Department of the Interior,
Sept. 26, 1905.
Respectfully referred to the
Commission to the Five Civil-
ized Tribes for consideration
and appropriate action.
Thos Ryan, Acting Secretary.
L.R.S.

Department of the Interior,
Received Sep. 19, 1905.
No. 9301.
Indian Territory Division.

C O P Y.

South McAlester, I. T.

Oct 4th 1905.

Hon Commissioner to the five Civilized tribes
Muskogee I. T.

Gentlemen:

In the Matter of Ada Skagg, who married (Joseph M. McLellan
a Citizen by Blood) January 7th 1902.,
beg of your Honorable office to report his case to the Honorable
Secretary of the Interior Washington D. C. to the end She may be
Enrolled and permitted to Select her allotment.
As she has been Ignorance of her Status up to date and now desire
to be So She Can Allot her home as I Am

Yours Respt

for

J. N. Arnold

Ada McLellan

South McAlester I. T.

Commission To Five Tribes.
No. 46009-1905.
Received Oct. 5, 1905.

Memo.-210.
O.L.S.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the alleged application for the enrollment of Ada McLellan as a citizen by intermarriage of the Choctaw Nation.

It appears from the record herein that on May 22, 1906, Ada McLellan appeared before the Commissioner to the Five Civilized Tribes at Muskogee, Indian Territory, and presented testimony relative to an application alleged to have been made for her enrollment as a citizen by intermarriage of the Choctaw Nation within the time limited by the provisions of the Act of Congress approved April 26, 1906 (Public 129).

The evidence in this case shows that no formal application has ever been made for the enrollment of said applicant as a citizen by intermarriage of the Choctaw Nation prior to her appearance on the above date.

It appears, however, that on July 2, 1904, Joseph A. McLellan (husband of the applicant) addressed a communication to the Commission to the Five Civilized Tribes, requesting to be advised "if the name of my wife, Ada McLellan, appears on the rolls as an intermarried citizen of the Choctaw Nation, and if not, can yet be placed thereon", and further stated that they were married on January 7, 1902.

On September 19, 1905, there was received by the Department of the Interior, a letter from J. H. Arnold, of Couch McAlister, Indian Territory, wherein he stated that he was in receipt of a letter from the Commission to the Five Civilized Tribes, dated September 14, 1905, wherein he was informed that said Commission was without authority to enroll said Ada McLellan as a citizen by intermarriage. Said communication was referred to this office for consideration and appropriate action.

On October 3, 1906, there was received by this office from J. H. Arnold, of Couch McAlister, Indian Territory, a letter dated October 4, 1906, wherein he requested that the applicant's case be reported to the Secretary of the Interior "to the end she may be enrolled and permitted to select her allotment".

I am of the opinion that the letter above mentioned should be considered as a sufficient application for the enrollment of Ada McLellan as a citizen by intermarriage of the Choctaw Nation, made within the time limited by the provisions of the Act of Congress approved April 26, 1906 (Public 129), and that the same should now be determined upon its merits, and it is so ordered.

Muskogee, Indian Territory,

Commissioner.

JUL 1 1906

Memo.-220.
O.L.J.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of
Ada McLellan as a citizen by intermarriage of the Choctaw Nation.

D E C I S I O N.

It appears from the record herein that application was
duly made for the enrollment of Ada McLellan as a citizen by inter-
marriage of the Choctaw Nation, within the time limited by the pro-
visions of the Act of Congress approved April 26, 1903 (Public 129).

It further appears from the record herein that on January
7, 1902, the applicant, Ada McLellan, was lawfully married to Joseph
McLellan, a recognized and enrolled citizen by blood of the Choctaw
Nation, whose name appears as number 15324 upon a list prepared
by the Commission to the Five Civilized Tribes, under the provisions
of the Act of Congress approved July 1, 1902 (32 Stats., 641), of
persons entitled to enrollment as citizens by blood of the Choctaw
Nation, and approved by the Secretary of the Interior May 9, 1904;
that at the time of said marriage both persons above mentioned were
residents in good faith of the Chickasaw Nation, and that they lived
together continuously as husband and wife in the Choctaw-Chickasaw
country from the date of their said marriage, up to and including
September 25, 1902.

I am, therefore, of the opinion that Ada McLellan should
be enrolled as a citizen by intermarriage of the Choctaw Nation,
under the provisions of the Acts of Congress approved June 28, 1898
(30 Stats., 493) and July 1, 1902 (32 Stats., 641), and it is so
ordered.


Commissioner.

Muskogee, Indian Territory,

JUL 1 - 1906

Memo 220

COPY.

Muskogee, Indian Territory, July 9, 1906.

Ada McLellan,

Ashland, Indian Territory.

Dear Madam:

Inclosed herewith you will find a copy of the decision of the Commissioner to the Five Civilized Tribes, rendered July 9, 1906, granting your application for enrollment as a citizen by intermarriage of the Choctaw Nation.

The attorneys for the Choctaw and Chickasaw Nations have been furnished a copy of this decision and have been allowed fifteen days from the date of this notice within which to file protest against your enrollment. If at the expiration of that time no protest has been filed, the name of Ada McLellan will be placed upon the final roll of citizens by intermarriage of the Choctaw Nation to be submitted to the Secretary of the Interior for his approval.

Respectfully,
SIGNED

Tamc Dixby
Commissioner.

Registered.

Incl. Memo.-220

Memo. 220

Muskogee, Indian Territory, July 9, 1906.

J. W. Arnold,

South McAlester, Indian Territory.

Dear Sir:

You are hereby notified that the Commissioner to the Five Civilized Tribes, rendered his decision, on July 9, 1906, granting the application for the enrollment of Ada McLellan as a citizen by intermarriage of the Choctaw Nation.

The attorneys for the Choctaw and Chickasaw Nations have been furnished a copy of said decision and have been allowed fifteen days from the date of this notice within which to file protest against her enrollment. If at the expiration of that time no protest has been filed, the name of Ada McLellan will be placed upon the final roll of citizens by intermarriage of the Choctaw Nation to be submitted to the Secretary of the Interior for his approval.

Respectfully,

SIGNED

James D. Doby

Commissioner.

Registered.

Memo.220

Muskogee, Indian Territory, July 9, 1906.

Apple & Franklin,

Attorneys at Law,

Muskogee, Indian Territory.

Gentlemen:

You are hereby notified that the Commissioner to the Five Civilized Tribes, rendered his decision, on July 9, 1906, granting the application for the enrollment of Ada McLellan as a citizen by intermarriage of the Choctaw Nation.

The attorneys for the Choctaw and Chickasaw Nations have been furnished a copy of said decision and have been allowed fifteen days from the date of this notice within which to file protest against her enrollment. If at the expiration of that time no protest has been filed, the name of Ada McLellan will be placed upon the final roll of citizens by intermarriage of the Choctaw Nation to be submitted to the Secretary of the Interior for his approval.

Respectfully,

SIGN

James B. Boyd
Commissioner.

Registered.

Wano 220.

Muskogee, Indian Territory, July 9, 1906.

Mansfield, McMurray & Cornish,
Attorneys for Choctaw and Chickasaw Nations,
South McAlester, Indian Territory.

Gentlemen:

Inclosed herewith you will find a copy of the decision of the Commissioner to the Five Civilized Tribes, rendered July 9, 1906, granting the application for the enrollment of Ada McLellan as a citizen by intermarriage of the Choctaw Nation.

You are hereby advised that you will be allowed fifteen days from the date of this notice within which to file protest against her enrollment. If at the expiration of that time no protest has been filed, the name of Ada McLellan will be placed upon the final roll of citizens by intermarriage of the Choctaw Nation to be submitted to the Secretary of the Interior for his approval.

Respectfully,

SIGNED

Wano Duxby
Commissioner.

7-6036

Muskogee, Indian Territory, October 3, 1906.

Joseph M. McLellan,
Ashland, Indian Territory.

Dear Sir:

Receipt is hereby acknowledged of your letter of September 18, 1906, asking why your wife Ada McLellan has not been approved.

In reply to your letter you are advised that the name of your wife Ada McLellan will be placed upon the next schedule of intermarried citizens of the Choctaw Nation prepared for forwarding to the Secretary of the Interior. You will be notified when her enrollment is approved by the Department.

Respectfully,

Commissioner.

Muskogee, Indian Territory, October 12, 1906.

Joseph M. McLellan,
Ashland, Indian Territory.

Dear Sir:

Receipt is hereby acknowledged of your letter of September 29, 1906, in which you ask why your wife, Ada McLellan has not been enrolled as an intermarried citizen of the Choctaw Nation.

In reply to your letter you are advised that the name of your wife, Ada McLellan will be placed upon the next schedule of citizens by intermarriage of the Choctaw Nation, prepared for forwarding to the Secretary of the Interior, and you will be notified when her enrollment is approved by the Department.

Respectfully,

Commissioner.

7-6036

Muskogee, Indian Territory, November 23, 1906.

J. M. Arnold,

South McAlester, Indian Territory.

Dear Sir:

Receipt is hereby acknowledged of your letter of November 14, 1906, asking if the Secretary of the Interior has approved the enrollment of Ada McLellan as an intermarried citizen of the Choctaw Nation.

In reply to your letter you are advised that the name of Ada McLellan has been placed upon a schedule of citizens by intermarriage of the Choctaw Nation which has been forwarded the Secretary of the Interior, but this office has not yet been notified of Departmental action thereon.

Respectfully,

Commissioner.

7-6036

Muskogee, Indian Territory, November 27, 1906.

Joseph M. McLellan,
Ashland, Indian Territory.

Dear Sir:

Receipt is hereby acknowledged of your letter of November 13, 1906, in which you ask if your wife has yet been placed upon the roll of intermarried citizens of the Choctaw Nation.

In reply to your letter you are advised that the name of your wife Ada McLellan has been placed upon a schedule of citizens by intermarriage of the Choctaw Nation which has been forwarded to the Secretary of the Interior and you will be notified when her enrollment is approved by the Department.

Respectfully,

Commissioner.

7-6036.

Muskogee, Indian Territory, December 18, 1906.

J. N. Arnold,

South McAlester, Indian Territory.

Dear Sir:

Your letter of the 5th instant addressed to the Secretary of the Interior has been by him referred to this office for consideration and appropriate action. Therein you state that you were advised on July 9, 1906, that the name of Ada McLellan had been placed upon the final roll of citizens by intermarriage of the Choctaw Nation, and that since said time you have heard of no further action relative thereto.

In reply thereto, you are advised that the name of Ada McLellan appears upon the final roll of citizens by intermarriage of the Choctaw Nation opposite No. 1593, the same having been approved by the Secretary of the Interior November 26, 1906.

Respectfully,

Commissioner.

Choctaw 6037
DOTTIE Roff

No. 1 placed hereon under Dept.
instructions of 9-19-06 directing
her enrollment as an intermarried
citizen of the Choc. Nation

6037

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, June 14, 1903.

In the matter of the alleged application of Dottie Roff for enrollment as a citizen by intermarriage of the Choctaw Nation.

Guy P. Cobb, Esq., of Ardmore, Indian Territory, Appearing as Attorney for the Applicant.

Dottie Roff being first duly sworn testified as follows:

Examination by the Commission:

Q What is your name? A Dottie Roff.

Q How old are you? A 22 years old.

Q Have you ever applied to this Commission for enrollment as a citizen by intermarriage of the Choctaw Nation?

A No sir.

Q You have never made any personal application at all? A No.

Q Did you ever make application otherwise than personal--did you ever make any written application? A No sir.

Q Do you claim to be entitled to enrollment as a citizen by intermarriage of the Choctaw Nation? A Yes sir.

Q What is the name of your husband through whom you claim that right? A William B. Roff.

The husband of the applicant, William B. Roff, is identified on Choctaw Field Card No. 40, and as No. 72 on the final roll, approved by the Secretary of the Interior December 12, 1902.

Q Did anyone ever make application in your behalf for your enrollment that you know of? A Andy Roff went down there and come back and told us that there wasn't any use of going to Ada.

Q You don't know whether Andy Roff ever applied for your enrollment at all, except just what he told you? A No sir.

Q You was not with him when he made the application, if he did make one? A No sir.

Q And with the exception of what Andy Roff did, if he did anything, there was nothing done? That is, what was done was what Andy Roff did? A Yes, and my husband was going down there and they told him that there was no use going; he started down to Ada the last day.

Witness excused.

William D. Roff being first duly sworn, testified as follows:

Examination by the Commission:

Q What is your name? A William D. Roff.

Q Are you the husband of the witness who has just testified?

A Yes sir.

Q Do you know anything about any application ever made for her enrollment? A No, I don't know anything of that kind. I

2-Dettie Roff.

was sick at the time my brother went to the Commission at Ada, and I told them to make application for my wife, and he come back the last day the Commission stayed there; they only stayed there 3 or 4 days; I started over to the depot to go, and he told me that there was no use going; there was two or three other fellows--intermarried men--

Q And you never made any application for your wife's enrollment
A No sir.

Q And your wife has never made any in person? A No sir.

Q And you never wrote to the Commission inquiring about it at all? A Yes, I wrote a letter last summer.

Q Prior to last summer had you ever written the Commission, or done anything at all in connection with it? A No sir.

Q All you claim to have been done in the line of making application is that your brother went to Ada and you told him to make application for your wife, and when he came back he told you that he had done so? A Yes, that's all.

Examination by Mr. Cobb:

Q When were you and Dettie Roff married? A In 1901.

By the Commission:

Q You say that you were married in 1901 to Dettie Roff? A Yes.

Q Where were you married? A Roff.

Q Married under United States license? A Yes sir?

Q Have you that license and certificate in your possession?

A Yes sir.

Produced in evidence marriage license and certificate of marriage between W. D. Roff and Miss Det Bond, showing that said marriage was solemnized October 29, 1901.

Q Is your wife the Miss Det Bond referred to in this marriage license? A Yes sir.

Q And you are the W. D. Roff referred to there? A Yes sir.

Q At the time you married her had you ever been married before? A No sir.

Q Had she ever been married prior to her marriage with you? A No sir.

Q Where were you living at that time? A Roff.

Q And she was living there also? A Yes--she was living at Randolph.

Q Is that in the Chickasaw Nation? A Yes sir.

Q Have you lived in the Chickasaw Nation continuously ever since you were married? A Ever since we were married, yes.

Q There has been no separation of any kind between yourself and your wife? A No sir.

Witness excused.

Andrew V. Roff being first duly sworn testifies as follows:

Examination by the Commission:

Q What is your name? A Andrew V. Roff.

Q You have heard the testimony of your brother, William D. Roff, relative to the application that is claimed to have been made for Dettie Roff; can you tell us if an application was

3-Dettie Reff.

made and if so, when?

A I went to Ada, at the time I went there for myself, and I told them that my brother wanted to make application for his wife, and they said that they was not taking new applications.

Q You say that you told them that you and your brother wanted to make application for your wives? A Yes sir.

Q Did you mention your brother's name? A Yes sir.

Q Did you tell them his wife's name? A No, I didn't tell them her name.

Q You just told them that you wanted to make application for your wife and your brother's wife. A Yes.

Q Was anything said except that they were not taking applications at that time? A Yes, they asked me if Cleo Estelle was living, and I told them no, she was dead.

Q You don't know who it was that said they were not receiving new applications, do you? A No, I don't know.

Q How did you come to try to make application for your brother's wife? Why didn't he make application for his own wife?

A He was sick that day; he knew I was going up there, and he told me to see about it for him, and I did the best I could.

Q That was at Ada in 1902? A Yes, in November, 1902.

Witness excused.

Dettie Reff being recalled testified as follows:

Examination by the Commission:

Q You are a white woman, are you? A Yes sir.

Q You have no Indian blood? A No sir.

Q What is the name of your parents? A Bond.

Q What is your father's full name? A William Bond.

Q And your mother's name? A Eliza Bond.

Q Both United States citizens? A Yes sir.

Q Had you ever been married prior to your marriage to William D. Reff? A No sir.

Q And you and he have lived together since the time of your marriage up to the present time as husband and wife? A Yes sir.

Q There has never been any separation of any kind? A No sir.

-----Q-----

Frances R. Lane upon oath states that as stenographer to the Commission to the Five Civilized Tribes she correctly reported the testimony and proceedings had in the above entitled cause and that the foregoing is an accurate transcript of her stenographic notes thereof.

Frances R. Lane

Subscribed and sworn to before me this June 17, 1905.

W. Campbell
Notary Public.

C O P Y .

M A R R I A G E L I C E N S E .

No. 1554.

United States of America,
Indian Territory ss.
Southern District
To Any Person Authorized by Law to Solemnize Marriage,

Greeting:

YOU ARE HEREBY COMMANDED TO Solemnize the Rite and publish the Banns of Matrimony between Mr. W. D. Reff of Reff, in the Indian Territory, aged 27 years, and Miss Dot Band of Randolph, in the Indian Territory, aged 18 years, according to law; and do you officially sign and return this license to the parties therein named.

Witness my hand and official seal this 25th day of October, A. D., 1901.

Chas. M. Campbell,
Clerk of the United States
Court.

By J. T. Flemming, D.C.

C E R T I F I C A T E O F M A R R I A G E .

United States of America
Indian Territory ss.
Southern District

I, C. H. Carlton, as Ordained Minister, do hereby certify that on the 29 day of Oct., A. D., 1901, I did duly and according to law, as commanded in the foregoing license, solemnize the rite and publish the banns of matrimony between the parties therein named.

Witness my hand this 29 day of Oct., A. D., 1901

My credentials are recorded in the office of the United States Court, Indian Territory, Southern District, at Ardmore, Book A., Page 58.

(Signed) C. H. Carlton,
an Ordained Minister

Endorsed:

#1554

Certificate of Record of Marriage.

United States of America
Indian Territory
Southern District

I, C. M. Campbell, Clerk of the United States Court in the Territory and District aforesaid, do hereby certify that the license for and the certificate of marriage of Mr. W. D. Reff and Dot Band were filed in my office in said Territory and District on the 1 day of Nov., A. D., 1901 and duly recorded in Book F. of Marriage record, Page 90

Witness my hand and seal of said court at Ardmore this 19 day of Feb., A. D., 1902. C. M. Campbell, Clerk.

Filed Nov. 1, 1901, & A. M.
C. M. Campbell, Clerk.

AF
Memo.-95.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

-----0-----

In the matter of the alleged application for the enrollment of Dottie Roff as a citizen by intermarriage of the Choctaw Nation.

-----0-----

It appears from the record herein that on June 14, 1905, Dottie Roff appeared in person before the Commission to the Five Civilized Tribes and presented testimony relative to an application alleged to have been made for her enrollment as a citizen by intermarriage of the Choctaw Nation within the time limited by the provisions of the Act of Congress approved July 1, 1902 (32 Stats., 641).

The applicant does not claim that she ever made any personal application for her enrollment, but alleges that application was made for her by her brother-in-law, Andrew V. Roff, at Ada, Indian Territory, in 1902.

William D. Roff, husband of the applicant, testifies that at the time said Commission was in session at Ada, Indian Territory, he was sick, and that as his brother, Andrew V. Roff, was at that time intending to, and did, appear before said Commission for the purpose of making application for the enrollment of his wife, the witness requested him to make application at the same time for said Dottie Roff.

Andrew V. Roff testifies that he appeared before said Commission at Ada, Indian Territory, in November, 1902, and sought to make application for the enrollment of his own wife and for said Dottie Roff, wife of his brother. The witness further testifies that he did not mention the name of said Dottie Roff to the Commission, but simply told them that he wanted to make application for his wife, and for his brother's wife.

It does not appear from the records of said Commission that any application was ever made to said Commission for the enrollment of said Dottie Roff as a citizen by intermarriage of the Choctaw Nation, either in person or otherwise.

I am of opinion that the evidence does not establish that any application was made for the enrollment of Dottie Roff as a citizen by intermarriage of the Choctaw Nation within the time limited by the provisions of the Act of Congress approved July 1, 1902 (32 Stats., 641), and that no authority exists at this time, for the receipt of any application for her enrollment, and I therefore decline to receive same.


Commissioner.

Muskegee, Indian Territory,

SEP 25 1905

Memo.-95

Muskogee, Indian Territory, September 28, 1905.

COPY.

Dottie Roff,

Roff, Indian Territory,

Dear Madam:

Inclosed herewith you will find a copy of the order of the Commissioner to the Five Civilized Tribes dated September 28, 1905, declining to receive your application for enrollment as a citizen by intermarriage of the Choctaw Nation.

The order, with the record of proceedings in the case, is this day transmitted to the Secretary of the Interior for review. The final decision of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

Registered.

Commissioner.

Incl. Memo.-95.

Memo.-95.

COPY

Muskogee, Indian Territory, September 28, 1905.

Guy P. Cobb,
Attorney at Law,
Ardmore, Indian Territory,

Dear Sir:

Inclosed herewith you will find a copy of the order of the Commissioner to the Five Civilized Tribes, dated September 28, 1905, declining to receive the application for the enrollment of Dottie Roff as a citizen by intermarriage of the Choctaw Nation.

The order, with the record of proceedings in the case is this day transmitted to the Secretary of the Interior for review. The final decision of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

SIGNED

Registered.

Commissioner.

Incl. Memo.-95.

Memo-98

COPY.

Muskogee, Indian Territory, September 28, 1905.

Mansfield, McMurray & Cornish,

Attorneys for Choctaw and Chickasaw Nations,

South McAlester, Indian Territory.

Gentlemen:

Inclosed herewith you will find a copy of the order of the Commissioner to the Five Civilized Tribes, dated September 28, 1905, declining to receive the application for the enrollment of Dottie Roff as a citizen by intermarriage of the Choctaw Nation.

The order, with the record of proceedings in the case, is this day transmitted to the Secretary of the Interior for review. The final decision of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

SIGNED

Incl. Memo. 98

Commissioner.

Muskogee, Indian Territory, September 28, 1908.

COPY.

The Honorable,

The Secretary of the Interior.

Sir:

There is herewith transmitted the record of proceedings in the matter of the application for the enrollment of Dettie Roff as a citizen by intermarriage of the Choctaw Nation, including the order of the Commissioner to the Five Civilized Tribes, dated September 28, 1908, declining to receive said application.

Respectfully,

SIGNED

Through the
Commissioner of Indian Affairs.

Commissioner.

2 Incl. Memo.-95.

DEPARTMENT OF THE INTERIOR,

WASHINGTON.

G.R.
LLB

DC. 50242-1905.
I T D 13412-1905.

October 30, 1905.

LRS

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

September 28, 1905, you transmitted the record of an alleged application made for the enrollment of Dettie Roff as a citizen by intermarriage of the Choctaw Nation, including your decision of same date declining to receive said application, on the ground that the evidence does not establish that any application was made for the enrollment of Dettie Roff as a citizen by intermarriage of the Choctaw Nation within the time limited by the provisions of the act of Congress approved July 1, 1902 (32 Stat., 641), and that no authority exists at this time for the receipt of any application for her enrollment.

October 10, 1905, the Acting Commissioner of Indian Affairs reporting thereon, recommended that your decision declining to receive said application be affirmed. A copy of his letter is inclosed.

The Department concurs in the recommendation made and your decision dated September 28, 1905, declining to receive said application, on the grounds above stated, is hereby affirmed.

Respectfully,

THOS. RYAN,
First Assistant Secretary.

1 inclosure.

Land.
73292-1905.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS, GAW
WASHINGTON. October 11, 1905.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to enclose a report from the Commissioner to the Five Civilized Tribes, dated September 28, 1905, transmitting the record of the alleged application for enrollment as a citizen by intermarriage of the Choctaw Nation by Dottie Roff.

September 28, 1905, the Commissioner decided adversely to the applicant.

The record shows that the applicant was, under a United States license, on October 29, 1901, married to W. D. Roff, who is identified as William R. Roff at No. 72 on the final Choctaw roll approved by the Department ^{December} 12, 1902. It is further shown that prior to the applicant's appearance before the Commissioner on June 14, 1905, she had never personally applied for enrollment but alleges that application was made for her by her brother-in-law, Andrew V. Roff, in 1902.

Andrew V. Roff testified that he appeared before the Commission in November, 1902, and sought to make application for his wife and for the wife of his brother, who is the applicant, but that he did not mention the name of this applicant.

-2-

In view of the fact that the evidence does not establish that any application was made for the enrollment of this applicant within the time limited by the act of July 1, 1902 (32 Stats., 641), the approval of the Commission's decision adverse to the applicant is recommended.

Very respectfully,

C. R. Larrabee,
Acting Commissioner.

MMH

Memo. 95

Muskogee, Indian Territory, November 9, 1905

Dottie Roff,

Roff, Indian Territory.

Dear Madam:

You are hereby notified that the Secretary of the Interior under date of October 30, 1905, affirmed the decision of the Commissioner to the Five Civilized Tribes, dated September 28, 1905, declining to receive your application for enrollment as a citizen by intermarriage of the Choctaw Nation.

Respectfully,

Commissioner.

Memo. 95

Muskogee, Indian Territory, November 9, 1905.

Guy P. Cobb,

Attorney at Law,

Ardmore, Indian Territory,

Dear Sir:

You are hereby notified that the Secretary of the Interior under date of October 30, 1905, affirmed the decision of the Commissioner to the Five Civilized Tribes, dated September 28, 1905, declining to receive the application for the enrollment of Dottie Reff as a citizen by intermarriage of the Choctaw Nation.

Respectfully,

Commissioner.

Memo. 95

Muskogee, Indian Territory, November 9, 1905.

Mansfield, McMurray & Cornish,

Attorneys for Choctaw and Chickasaw Nations,

South McAlester, Indian Territory,

Gentlemen:

You are hereby notified that the Secretary of the Interior under date of October 30, 1905, affirmed the decision of the Commissioner to the Five Civilized Tribes, dated September 28, 1905, declining to receive the application for the enrollment of Dottie Roff as a citizen by intermarriage of the Choctaw Nation.

Respectfully,

Commissioner.

COPY

Muskogee, Indian Territory, June 22, 1906.

The Honorable,

The Secretary of the Interior.

Sir:

September 28, 1905, the Commissioner to the Five Civilized Tribes rendered a decision declining to receive the application of Dottie Roff for enrollment as an intermarried citizen of the Choctaw Nation and on the same day the record in this case was transmitted to the Department and this action was approved by the Secretary of the Interior October 30, 1905.

I now have the honor to transmit herewith for Departmental consideration motion of Guy P. Cobb, attorney for applicant, for re-opening and reconsideration of the case under Section 1 of the act of Congress approved April 26, 1906.

Respectfully,

SIR: *Tama Dixby*

Commissioner.

Mem 95.

Through the Commissioner
of Indian Affairs.

COPY

Muskogee, Indian Territory, June 22, 1906.

The Honorable,

The Secretary of the Interior.

Sir:

September 28, 1905, the Commissioner to the Five Civilized Tribes rendered a decision declining to receive the application of Dottie Roff for enrollment as an intermarried citizen of the Choctaw Nation and on the same day the record in this case was transmitted to the Department and this action was approved by the Secretary of the Interior October 30, 1905.

I now have the honor to transmit herewith for Departmental consideration motion of Guy P. Cobb, attorney for applicant, for re-opening and reconsideration of the case under Section 1 of the act of Congress approved April 26, 1906.

Respectfully,

Sam Dixby

Commissioner.

Mem 95.

Through the Commissioner
of Indian Affairs.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application
for the enrollment of Dottie Roff
as a citizen by intermarriage of
the Choctaw Nation.

MOTION TO RE-OPEN
AND
RE-CONSIDER.

Comes now Dottie Roff by her attorney Guy P. Cobb, and moves that the above entitled case be re-opened and the decision of the Commissioner be re-considered, and that she be enrolled as an intermarried citizen of the Choctaw Nation under provisions of Section one, of the act of Congress approved April 26th, 1906, upon the following grounds.

First, application for enrollment in this case was made prior to December 1st, 1905, and the records in charge of the Commissioner to the Five Civilized Tribes show application to have been so made, and the case under consideration is clearly within the general provisions of the Section above referred to. Second, that the applicant was married in accordance with the laws and customs of the Choctaw Nation to a recognized citizen of said Nation, and that such marriage was equivalent to her name appearing upon the Tribal Rolls, that the application in this case was made prior to December 1st, 1905, and was not allowed solely because not made within the time prescribed by law and that the case now under consideration comes within the final proviso of the section above referred to.

Guy P. Cobb,

Attorney for applicant.

DEPARTMENT OF THE INTERIOR
Commissioner to the First Cavalry

FILED

JUN 10 1896


Commissioner

G.R.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

LLB.

I.T.D. 13412-1905
12716-1906.
D.C. 41529

September 19, 1906.

LRS.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

June 22, 1906, you transmitted a motion filed with your office June 10, 1906, for a reconsideration of the application of Dottie Roff for enrollment as an intermarried citizen of the Choctaw Nation, wherein the Department on October 30, 1905 (I.T.D. 13412), affirmed your decision of September 28, 1905, declining to receive said application, "on the ground that the evidence does not establish that any application was made for the enrollment of Dottie Roff as a citizen by intermarriage of the Choctaw Nation within the time limited by the provisions of the Act of Congress approved July 1, 1902 (32 Stat., 641), and that no authority exists at this time for the receipt of any application for her enrollment."

Upon a reconsideration of the above decision, and in view of the provisions of section 1 of the act of April 26, 1906 (34 Stat., 137), providing for the consideration of such an application for enrollment as a citizen of the Choctaw Nation when made prior to December 1, 1905, said motion for a reconsideration

is hereby granted, and departmental decision of October 30, 1905 (I.T.D. 13412), denying said application, is hereby set aside.

The record shows that personal application was made by Dottie Roff for her enrollment as an intermarried citizen of the Choctaw Nation on June 14, 1905, and that she was married in accordance with United States law on October 29, 1901, to William D. Roff, whose name appears upon the partial roll of Choctaw citizens by blood opposite No. 72 thereon, approved by the Acting Secretary of the Interior on December 12, 1902, record evidence of which was filed in the case.

The department, upon consideration of her application made June 14, 1905, and prior to December 1, 1905, directs that Dottie Roff be enrolled as an intermarried citizen of the Choctaw Nation, in conformity with the provisions of section 1, of the act of Congress approved April 26, 1906.

You are requested to notify applicant and her resident attorney, Guy P. Cobb, of Ardmore, Ind. T. of this action.

Respectfully,

Jesse E. Wilson.

Assistant Secretary.

COPY

Mem. 95.

Muskogee, Indian Territory, October 5, 1906.

Dettie Reff,

Reff, Indian Territory.

Dear Madam:

You are hereby notified that on September 19, 1906, the Secretary of the Interior rescinded the action of the Department of October 30, 1905, affirming the decision of the Commissioner to the Five Civilized Tribes of September 28, 1905, declining to receive your application as a citizen by intermarriage of the Choctaw Nation, and directed your enrollment as an intermarried citizen of said nation.

You are informed that your name will be placed upon the next schedule of citizens by intermarriage of the Choctaw Nation prepared for forwarding to the Secretary of the Interior.

Respectfully,

SIGNED *Wm. C. Reff*
Acting Commissioner.

MR

COPY

Memo.95.

Muskogee, Indian Territory, October 5, 1906.

Guy P. Cobb,

Ardmore, Indian Territory.

Dear Sir:

You are hereby notified that on September 19, 1906, the Secretary of the Interior rescinded the action of the Department of October 30, 1905, affirming the decision of the Commissioner to the Five Civilized Tribes of September 28, 1905, declining to receive the application of Dottie Roff as a citizen by intermarriage of the Choctaw Nation and directed her enrollment as an intermarried citizen of said nation.

You are informed that the name of Dottie Roff will be placed upon the next schedule of citizens by intermarriage of the Choctaw Nation prepared for forwarding to the Secretary of the Interior.

Respectfully,

SIGNED

Wm. C. Coker
Commissioner.

ME

MEMO. 95

Muskogee, Indian Territory, October 5, 1905.

Mansfield, McMurray & Cornish,
McAlester, Indian Territory.

Gentlemen:

You are hereby notified that on September 19, 1906, the Secretary of the Interior rescinded the action of the Department of October 19, 1905, declining to receive the application of Dottie Roff as a citizen by intermarriage of the Choctaw Nation, and directed her enrollment as an intermarried citizen of said nation.

You are informed that the name of Dottie Roff will be placed upon the next schedule of citizens by intermarriage of the Choctaw Nation prepared for forwarding to the Secretary of the Interior.

Respectfully,

NH

SIGNED

Wm. B. R. Commissioner.

15374

Certificate of Record of Marriage

UNITED STATES OF AMERICA, }
INDIAN TERRITORY, } scf.
Southern District.

I, C. M. CAMPBELL, Clerk of the United States Court, in the Territory and District aforesaid, DO HEREBY CERTIFY, that the License for and Certificate of Marriage of

Mr. *W. L. Hoff* and

M. *Dot Baud*

were filed in my office in said Territory and District the *1* day of *Nov.* A. D. 190*1*

and duly recorded in Book *4* of

Marriage Record, Page *70*

WITNESS my hand and Seal of said Court, at

Ardmore, this *19* day

of *Dec.* A. D. 190*1*

C. M. CAMPBELL
C. M. Campbell
CLERK.

Return this License to the United States Clerk at Ardmore, that it may be recorded, when it will be mailed to the proper address.

TRAD. PRINTING COMPANY.
Return to Ardmore

Marriage License

United States of America,
INDIAN TERRITORY
SOUTHERN DISTRICT.

To Any Person Authorized by Law
to Solemnize Marriage, Greeting:

You Are hereby Commanded To solemnize the Rite and publish the
Banns of Matrimony between Mr. *W. D. Poff*
of *Poff* in the Indian Territory, aged *27* years and
Miss Dot Poff of *Randolph*
in the Indian Territory, aged *15* years, according to law, and do
you officially sign and return this License to the parties therein named.

Witness My hand and official Seal, this *25th* day
of *October* A. D. 190*1*

CHAS. M. CAMPBELL
Clerk of the United States Court.

Certificate of Marriage.

UNITED STATES OF AMERICA,
INDIAN TERRITORY,
SOUTHERN DISTRICT.

I. C. H. Carlisle
an Ordained Minister

do hereby certify, that on the *22* day of *Oct*, A. D. 190*1*,

I did duly and according to law, as commanded in the foregoing License, solemnize the Rite and
publish the Banns of Matrimony between the parties therein named.

WITNESS my hand, this *29* day of *Oct*, A. D. 190*1*

My credentials are recorded in the office of the Clerk of the United States Court, Indian
Territory, Southern District, at Ardmore, Book *12*, Page *55*

(NOTE.—The person officiating should fill in the spaces
for book and page and sign here.)

I. C. H. Carlisle
an Ordained Minister

NOTE (a)—This License and Certificate of Marriage must be returned to the office of the Clerk of the United States Court in the
Indian Territory, at Ardmore, within sixty days from the date thereof, or the party to whom the License was issued
will be liable to the amount of One Hundred Dollars (\$100.)

NOTE (b)—No person is authorized to perform the Marriage Ceremony in the Southern District unless the proper credentials have
first been recorded in the Clerk's office.

Muskogee, Indian Territory, June 21, 1906.

Guy P. Cobb,

Attorney at Law,

Ardmore, Indian Territory.

Dear Sir:

Receipt is hereby acknowledged of your letter of May 23, 1906, inclosing motion to reopen and reconsider an application for the enrollment of Dottie Roff as an intermarried citizen of the Choctaw Nation and the same has this day been transmitted to the Secretary of the Interior for consideration in this case.

Respectfully,

Commissioner.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

G.R.
LJB.

I.T.D. 13412-1905
12716-1906.
D.C. 41529

September 19, 1906.

LR3.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

June 22, 1906, you transmitted a motion filed with your office June 10, 1906, for a reconsideration of the application of Dottie Roff for enrollment as an intermarried citizen of the Choctaw Nation, wherein the Department on October 30, 1905 (I.T.D. 13412), affirmed your decision of September 28, 1905, declining to receive said application, "on the ground that the evidence does not establish that any application was made for the enrollment of Dottie Roff as a citizen by intermarriage of the Choctaw Nation within the time limited by the provisions of the Act of Congress approved July 1, 1902 (32 Stat., 641), and that no authority exists at this time for the receipt of any application for her enrollment."

Upon a reconsideration of the above decision, and in view of the provisions of section 1 of the act of April 26, 1906 (34 Stat., 137), providing for the consideration of such an application for enrollment as a citizen of the Choctaw Nation when made prior to December 1, 1905, said motion for a reconsideration

is hereby granted, and departmental decision of October 30, 1906 (I.T.D. 13412), denying said application, is hereby set aside.

The record shows that personal application was made by Dettie Hoff for her enrollment as an intermarried citizen of the Choctaw Nation on June 14, 1903, and that she was married in accordance with United States law on October 29, 1901, to William D. Hoff, whose name appears upon the partial roll of Choctaw citizens by blood opposite No. 72 thereon, approved by the Acting Secretary of the Interior on December 12, 1902, record evidence of which was filed in the case.

The department, upon consideration of her application made June 14, 1903, and prior to December 1, 1905, directs that Dettie Hoff be enrolled as an intermarried citizen of the Choctaw Nation, in conformity with the provisions of section 1, of the act of congress approved April 26, 1901.

You are requested to notify applicant and her resident attorney, Guy P. Cobb, of Ardmore, Ind. T. of this action.

Respectfully,

Jesse E. Wilson.

Assistant Secretary.

Choctaw 6038

Genelia Allen

Record Trans. from Choc #D-178

6038



Commission to the Five Civilized Tribes,
Talihina, Indian Territory.

In the matter of the enrollment of Genela Allen as intermarried Choctaw, and her child, Revilla, as Choctaw by blood; John Allen being sworn and examined by Com. McKennon, testifies:
(Capt. Maytubby, Interpreter).

Q What is your name? A John Allen.

Q How old are you? A Sixty.

Q Do you know this woman and child? A Yes sir.

Q Were you ever married to this woman? A Yes sir.

Q When? A About four years ago.

Q Where? A Bib Lick

Q Who married them? A Ben Woods.

Q Who was he? A Minister.

Q How long did you live with her? A One year.

Q Did she have this child while you were living with her?

Q Yes sir.

Q How long after you were married to her when she had that child?

A Says he cannot tell exactly.

Q How long before you separated was it that this child was born?

A About a year.

Q Ask him if he means to say that the child was born about a year before they separated? A Yes sir.

Q And you only lived with her about one year? A That's all.

Q Do you remember how long it was after you were married until the child was born? A Four months.

Q Are you separated from her now? A Yes sir.

Q Why did you separate from her, what caused you to separate?

A They had some troubles about the child he says.

Q Did she leave you or did you leave her? A She quit him he said.

Lenora B. Ashton, as stenographer to the Commissioner to the Five Civilized Tribes, on oath states that she made the above and foregoing copy, and that the same is a true and complete copy of the original transcript.

Lenora B. Ashton.

Subscribed and sworn to before me this 18th day of August, 1906.

Walter W. Chappell
Notary Public.

Department of the Interior,
Commissioner to the Five Civilized Tribes.
Muskogee, Indian Territory, August 16, 1906.

In the matter of the application for the enrollment of
Genelia Allen, et al., as citizens of the Choctaw Nation.

GENELIA ALLEN, being first duly sworn, testified as follows:

Examination by the Commissioner:

- Q What is your name? A Allen.
Q What is your first name? A Genelia.
Q How old are you? A Forty-nine years old.
Q What is your post office? A Havana, Arkansas.
Q Through whom do you claim your right to enrollment as an inter-married citizen of the Choctaw Nation? A John Allen.
Q What was he? A Choctaw.
Q Is he living? A Well, he was the last time I heard from him.
Q When was that? A Last September.
Q Where were you married to John Allen? A Smithville.
Q Choctaw Nation? A Yes sir.
Q Where were you living at that time? A Living on Little River.
Q In the Choctaw Nation or Arkansas? A In Neshoba County, Choctaw Nation.
Q How long had you lived in the Choctaw Nation? A Twenty-one years.
Q Before you married him? A Yes sir.
Q What is the date of your marriage to John Allen? A 18th day of August, 1894; twelve years to-morrow since we were married.
Q Where was John Allen living at the time of your marriage? A Living on Little River, in the Choctaw Nation.
Q Had you been married before you married John Allen? A Yes sir.
Q To whom? A Putnam.
Q White man? A Yes sir.
Q Was he dead? A Yes sir.
Q That is the only marriage? A Yes sir.
Q Had John Allen been married before that? A Yes sir.
Q Was his wife living? A No sir, she was dead.
Q He had only been married once before? A That is what he said, just one time.
Q And she was dead? A Yes sir.
Q How long did you and John Allen live together? A We lived together from August to November through one year.
Q One year and a little over? A Yes sir.
Q And then you separated? A Yes sir.
Q Did you get a divorce from him? A No sir.
Q Did he from you? A I heard he did, I don't know; I never been notified of it if he has.
Q Have you married since then? A No sir.
Q Did you have any children by John Allen? A Yes sir, that little girl.
Q What is the date of her birth? A She was born the 15th day of July, 1895.
Q 15th day of July, 1895? A Yes sir.

- Q Was she born while you were living with John Allen? A Yes sir, we separated in October.
- Q Separated in October after the child's birth? A Yes sir.
- Q Well, after you separated did you stay there in the Choctaw Nation or did you move over to Arkansas? A No sir, I stayed there four years after we separated.
- Q When did you leave the Choctaw Nation? A I left there in 1902.
- Q What would be about seven years? A Well, that is just when I left there; yes, it was 1902.
- Q How many years after you left John Allen did you stay in the Choctaw Nation? A Well, I stayed there until '92.
- Q '92 or 1902? A 1902; stayed in Kiamitia County close to Tushkahoma, on my place.
- Q Was your little girl with you all the time? A All the time; I was enrolled at Talihina.
- Q By the Dawes Commission? A Yes sir.
- Q Did you ever hear that in 1896 they made a census roll of the Choctaws and intermarrieds? A No, I never been notified of anything until last week.
- Q How old was John Allen when you married him? A Well, I don't remember.
- Q Well, haven't you some idea? A It was either 45 or 55; I don't remember which.
- Q 45 or 55? A Yes, he was a good deal older than I am.
- Q Do you know the name of his mother? A No sir, I don't.
- Q His father? A No sir.
- Q How much Choctaw blood did he have? A Three quarters, I think.

John Allen, through whom the applicant claims her intermarried rights, is identified upon Choctaw Field Card No. 2071, opposite No. 5960, approved by the Secretary of the Interior January 16, 1903.

John Allen is also identified upon the 1893 Choctaw Leased District Payment Roll, Neshoba County, No. 5, and also upon the 1896 Choctaw Census Roll, Wades County, No. 188.

- Q Who married you to John Allen? A Ben Woods.
- Q At what place were you married? A Smithville.
- Q In a church? A Yes sir.
- Q What church? A I don't know nothing more than Smithville Church; that ain't the name of it though.
- Q Has it ever been known by the name of Bib Lick Church? A That is it, I think.
- Q Did you get a certificate from the preacher who married you? A No sir, I didn't get it; John Allen got it.
- Q And you never got it from him when you separated? A No sir, I never got nothing.

(Witness excused.)

Lenora B. Ashton, as stenographer to the Commissioner to the Five Civilized Tribes, on oath states that she reported the testimony in the above entitled cause on the 16th day of August, 1906, and that the above and foregoing transcript is a true and complete translation of her stenographic notes.

Subscribed and sworn to before me this 16th day of August, 1906.

Lenora B. Ashton

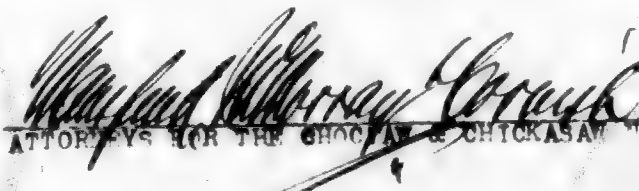
Hawkins
Notary Public.

BEFORE THE COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of Genelia Allen as a citizen by intermarriage of the Choctaw Nation, Choctaw Field No. D-178.

We hereby request, on behalf of the Choctaw and Chickasaw Nations, that final decision in this case be postponed until final decision by the Choctaw and Chickasaw Citizenship Court in the case of R. F. Thompson vs. Choctaw and Chickasaw Nations, No. 38 on the South McAlester Docket, in which the said court will decide the question of the validity of that portion of the intermarriage laws of the Choctaw Nation providing for the forfeiture of citizenship of white persons who separate from their Indian spouses, which question is involved in the case to which this communication refers.

This request is filed under authority granted by the Honorable Secretary of the Interior in his communication to the Commission to the Five Civilized Tribes upon the subject, dated November 18, 1903.


ATTORNEYS FOR THE CHOCTAW & CHICKASAW NATIONS.

January 23, 1904.

78178

UNITED STATES OF AMERICA,
CENTRAL DISTRICT,
INDIAN TERRITORY.

Personally appeared before me the undersigned, a Notary Public in and for the Central District of Indian Territory, Genelia Allen, who being first duly sworn makes answer to the following interrogatories:

What is your name, age and post office address?

When were you married to John Allen?

By whom were you married?

Where were you residing at the time of your marriage to John Allen?

Where was John Allen residing at the time of his marriage to you?

Were you ever married prior to your marriage to John Allen?

If so, was he living at the time of your marriage to John Allen?

Was John Allen ever married prior to his marriage to you?

If so, was she living at the time of his marriage to you?

How long did you live with John Allen?

Were you divorced from him?

Give places of residence from the time of your marriage to John Allen up to and including September 25, 1902?

SECRET - 170.

By the Commission on the Enrollment
of the 11th and 12th Inter-
national of the American
People.

SECRET - 11th and 12th International

*Not to be overruled
by Departmental*

RECEIVED
FEB 6 1971
FILED

[Signature]

CHAIRMAN

-2-

Subscribed and sworn to before me this _____ day of _____, 1906.

Notary Public.

My Commission Expires _____ day of _____, 19____.

Post Office _____.

70198

IN RE

Application for Enrollment of
INFANT CHILD.

Rovilla Allen

As a citizen of the

Choctaw

Nation.

Approved

1

Commissioner.

Department of the Interior,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

IN RE Application for Enrollment, as a citizen of the Cherokee Nation,
of Martha Allen, born on the 15 day of June, 1895.
Name of father: Sam Allen, a citizen of the Cherokee Nation.
Name of mother: Martha Allen, a citizen of the Cherokee Nation.
Post Office: Reidsville, Ga.

AFFIDAVIT OF MOTHER.

UNITED STATES OF AMERICA,
INDIAN TERRITORY,
Cherokee District.

I, Martha Allen, on oath, state that I am 17 1/2 years of age and a
citizen, by Intermarriage of the Cherokee Nation; that I am the
lawful wife of John Allen, who is a citizen, by blood, of the
Cherokee Nation; that a male child was born to me on the 15 day
of June, 1895; that said child has been named Martha Allen
and is now living.

Subscribed and sworn to before me this

22

day of

May

A. D.

1899

[Signature]
Notary Public.

AFFIDAVIT OF ATTENDING PHYSICIAN, OR MIDWIFE.

UNITED STATES OF AMERICA,
INDIAN TERRITORY,
District.

I, _____, on oath, state that I
attended on Mrs. _____, wife of _____
on the _____ day of _____, 18____; that there was born to her on said date a _____ child;
that said child is now living and is said to have been named _____.

Subscribed and sworn to before me this

day of

1

Notary Public.

Commission to the Five Civilized Tribes,
Tahkima, Indian Territory.

In the matter of the enrollment of Geneva Allen as inter-
married Choctaw and child Revilla, as Choctaw by blood. Benjamin
J. Woods being sworn and examined by Commissioner McKennon, testi-
fies as follows:

Now is Benjamin J. Woods, fifty-eight years old.

Q Do you know John Allen? A Yes sir, I know him.

Q Do you know his wife? A Yes sir, I know his wife.

Q Is she a white woman? A Yes sir.

Q What was her name do you know? A I don't remember her
name, no. I knew her.

Q How long has he been separated from now? A Yes sir.

Q Do you know anything about their marriage? A Yes sir.

Q What could you know about it please? A You are a Minister
of the Gospel are you? A Yes sir.

Q Did you officiate at their marriage? A Yes sir, I married
them at Welf County M. L. L. Church.

Q You know when? A I don't know the date.

Q About how many years ago? A Four or five years ago maybe.

Q Do you know how long they lived together? A Not very
long, about a year or so.

Department of the Interior,

McKennon

Commission to the Five Civilized Tribes,
Talihina, Indian Territory.

In the matter of the enrollment of Genela Allen as intermarried Choctaw, and her child, Rovilla, as Choctaw by blood; John Allen being sworn and examined by Com. McKennon, testifies:

(Capt. Maytubby, Interpreter)

- Q What is your name? A John Allen.
- Q How old are you? A Sixty.
- Q Do you know this woman and child? A Yes sir.
- Q Were you ever married to this woman? A Yes sir.
- Q When? A About four years ago.
- Q Where? A Bib Lick.
- Q Who married them? A Ben Woods.
- Q Who was he? A Minister.
- Q How long did you live with her? A One year.
- Q Did she have this child while you were living with her?
- A Yes sir.
- Q How long after you were married to her when she had that child?
- A Says he cannot tell exactly.
- Q How long before you separated was it that this child was born?
- A About a year.
- Ask him if he means to say that the child was born about a year before they separated? A Yes sir.
- Q And you only lived with her about one year? A That's all.
- Q Do you remember how long it was after you were married until the child was born? A Four months.
- Q Are you separated from her now? A Yes sir.
- Q Why did you separate from her, what caused you to separate?
- A They had some trouble about the child he says.
- Q Did she leave you or did you leave her? A She quit him to go.
- Q Did she get a divorce from you or did you get a divorce from

(Gemma Allen and child Revilla, John Allen witness #2)

her? A He got the divorce.

Q Because she had left you? A Yes sir. He said that he wanted to get her back but she wouldn't come back to him and he got the divorce.

Q You think it was about four months after you were married that the child was born? A He says it might have been four or six months, he couldn't say exactly.

Q Do you remember what month you were married in? A He don't remember that.

Q Do you remember what month the child was born in? A Says he don't remember that.

Department of the Interior,
Carroll County, Maryland

M.D. Green

Chester - 177.

In the ... of ...
of ... all ... by
... Chester ...

Chester ...

*Protest submitted
by Department,*

RECEIVED

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FEB 6

CHAIRMAN

BEFORE THE COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of
Revilla Allen as a citizen by blood of the Choctaw Nation, Choctaw
Field No. D-178.

- - - - -

We hereby request, on behalf of the Choctaw and Chickasaw
Nations, that final decision in this case be postponed until final
decision by the Choctaw and Chickasaw Citizenship Court in the case
of Valsie Butler, et al., vs. Choctaw and Chickasaw Nations, No. 121
on the South McAlester Docket, in which the said court will decide
the question of whether the illegitimate child of a citizen father
will take the status of the father or mother, which question is
involved in the case to which this communication refers.

This request is filed under authority granted by the
Honorable Secretary of the Interior in his communication to the
Commission to the Five Civilized Tribes upon the subject, dated
November 18, 1903.


Attorneys for the Choctaw & Chickasaw Nations.

January 23, 1904.

7-D-171.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of
Genelia Allen, et al., as citizens of the Choctaw Nation.

DECISION.

It appears from the census card record in this case that on May 28, 1898, application was made to the Commission to the Five Civilized Tribes for the enrollment of Genelia Allen as a citizen by intermarriage of the Choctaw Nation, and for the enrollment of her minor daughter, Rovilla Allen, as a citizen by blood of said nation.

It further appears from the record herein that on August 18, 1894, the applicant, Genelia Allen, was lawfully married to John Allen, a recognized and enrolled citizen by blood of the Choctaw Nation, whose name appears as number 2960 upon a list prepared by the Commission to the Five Civilized Tribes, under the provisions of the Act of Congress approved July 1, 1902 (32 Stats., 641), of persons entitled to enrollment as citizens by blood of the Choctaw Nation, and approved by the Secretary of the Interior January 16, 1903; that said John Allen is identified upon the 1893 Choctaw Leased District Payment Roll, Meshoba County, No. 5, and also upon the 1896 Choctaw Census Roll, Wade County, No. 168; that at the time of said marriage both persons above mentioned were residents in good faith of the Choctaw Nation; and that they lived together continuously as husband and wife in said nation for a period of about fifteen months, when they separated and were subsequently divorced. The applicant, Rovilla Allen, was born July 15, 1895, and is the daughter of said Genelia Allen and John Allen, above mentioned.

It further appears from the record herein that both of the applicants herein were residents in good faith of the Indian Territory on June 28, 1898.

I am, therefore, of the opinion that Genelia Allen should be enrolled as a citizen by intermarriage of the Choctaw Nation, and that Rovilla Allen should be enrolled as a citizen by blood of said nation, under the provisions of the Acts of Congress approved June 28, 1898 (30 Stats., 495) and July 1, 1902 (32 Stats., 641), and it is so ordered.


Commissioner.

Muskogee, Indian Territory,

AUG 21 1906

Department of the Interior.
Commission to the Five Civilized Tribes.
Muskogee, Indian Territory, April 5, 1902.

Genelia Allen, et al.,
vs.
The Choctaw Nation.

D-173.

In the matter of the application of Genelia Allen for the enrollment of herself and her minor child, Revilla Allen, as citizens by blood of the Choctaw Nation.

On the 27th day of February, 1902, the principal applicant, was notified by registered mail, and on the 6th day of March 1902, the attorneys for the Choctaw and Chickasaw Nations were also notified by registered mail that the application of Genelia Allen for the enrollment of herself and her minor children as citizens of the Choctaw Nation would be taken up by the Commission to the Five Civilized Tribes at its office in Muskogee, Indian Territory on the 5th day of April, 1902.

Now on this 5th day of April, 1902, this cause coming on to be heard pursuant to said notice, the Choctaw Nation appears by its attorneys, Mansfield, McMurray & Cornish, and the applicants being called failed to appear, and the case is submitted upon the evidence and record as now made up.

Hal Belford, being first duly sworn, upon his oath states that as stenographer to the Commission to the Five Civilized Tribes he reported in full all the proceedings in the above entitled cause on the 5th day of April, 1902, and that the above and foregoing is a full, true and correct transcript of his stenographic notes in said cause on the said day of April, 1902.

Subscribed and sworn to before me this 7th day of April, 1902.

Notary Public.

Times of Indian Territory,

August 18th, 1900.

General: 11.11.11

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13-00000

1. General 2. Particular 3. Conclusion 4. Summary 5. Remarks

file [redacted] Committee on protest [redacted]

and

10

U.S. GOVERNMENT PRINTING OFFICE: 1967 O - 381-100

1. The first of these is the "Mocotaw" or "Mocotaw" and the "Mocotaw"

Nation will be permitted to offer additional petitions and action.

arguments in this case, and this hearing will be final.

four: truly,

Acting Director.

COMMISSIONERS
HENRY L. DAWES.
TAMM SIXBY.
THOMAS B. NEEDLES
C. R. BRECKINRIDGE

ALLISON L. AYLESWORTH
SECRETARY

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES .Choctaw D-178.

44-178
REFER IN REPLY TO THE FOLLOWING

Muskogee, Indian Territory, February 27, 1902.

Genelia Allen,

Dexter, Indian Territory.

You are hereby notified that the application for enrollment of yourself and your child, Ravilla Allen, as citizens of the Choctaw Nation will be taken up by the Commission to the Five Civilized Tribes for final consideration at its office in Muskogee, Indian Territory, on the 5th day of April, 1902.

On said date, you may, if you desire, appear before the Commission in person or by attorney, when an opportunity will be given you to introduce any additional testimony affecting said application.

You are further notified that the Representatives of the Choctaw Nation will also at the same time be afforded an opportunity to introduce testimony affecting your right to enrollment, but said Representatives will be required to notify you of their intention to introduce such testimony before they will be permitted to do so.

The Commission to the Five Civilized Tribes.

Register.


Commissioner in Charge

-7-D-178-

Muskogee, Indian Territory, September 24, 1902.

Postmaster,

Dexter, Indian Territory.

Dear Sir:-

On February 26, 1902, there was forwarded from this office, by registered mail, register No. 2967, a letter addressed to Genelia Allen, Dexter, Indian Territory, for which no delivery receipt has yet been received. If this letter has been delivered, please advise date of such delivery; if on hand unclaimed, please return same to this office.

Respectfully,

Acting Chairman.

Muskogee, Indian Territory, February 26, 1903.

Genelia Allen,

Dexter, Indian Territory.

Dear Madam:

It is the present intention of the Commission to establish land offices in the Choctaw and Chickasaw Nations April 1, 1903.

The Act of Congress approved July 1, 1902, provides:

"No person whose name does not appear upon the rolls as herein provided shall be entitled in any manner to participate in the distribution of the common property of the Choctaw and Chickasaw tribes."

It will be necessary, before your right to enrollment as an intermarried citizen of the Choctaw Nation can be determined, that you appear before the Commission and testify as to your status on September 25, 1902.

For this purpose the Commission has made an appointment at Atoka, Indian Territory, March 10 to 13, 1903, and you should personally appear at said place on one of the above dates for the purpose herein indicated. No further action can be taken relative to the determination of your right to enrollment until this testimony is received.

Respectfully,

Chairman.

COMMISSIONERS
TAMM BERRY.
THOMAS B. NEEDLES.
C. R. BRICKNIDGE.
W. E. STANLEY.

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES.

REFER IN REPLY TO THE FOLLOWING

Choctaw D 172

ALLISON L. AYLESWORTH
SECRETARY

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES Muskogee, Indian Territory February 12, 1904.

Genelia Allen,

Dexter, Indian Territory,

Dear Madam:

You are hereby advised that under direction of the Secretary of the Interior of November 18, 1903, and upon a protest filed with the Commission by the attorneys for the Choctaw and Chickasaw Nations dated January 23, 1904, no further action will be taken relative to the enrollment of yourself as a citizen by intermarriage, and of your minor child Revilla Allen as a citizen by blood, of the Choctaw Nation, until the Commission is further instructed by the Secretary of the Interior.

Respectfully,


Commissioner in Charge.

COMMISSIONERS:
TAMM BIXBY,
THOMAS B. NEEDLES,
C. E. BRECKINRIDGE.

WM. O. BRALL,
Secretary

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

REPLY IN WRITING TO THE FOLLOWING:

7-D-178.

Muskogee, Indian Territory, August 13, 1904.

Gemelia Allen,

Dexter, Indian Territory,

Dear Madam:

You are hereby notified that before further consideration can be given your application for enrollment as an intermarried citizen of the Chickasaw Nation, it will be necessary for you to appear in person before the Commission to testify as to your intermarried status on September 25, 1902.

For this purpose you are requested to appear at Muskogee, Indian Territory, as soon as possible, or at the land office at Atoka, Indian Territory, on September the 6th or 7th, 1904, or at the land office at Tishomingo, Indian Territory, on September the 8th or 9th, 1904.

Respectfully,



Commissioner in Charge.

REFER TO COPY TO THE FOLLOWING:

7-D-178.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, November 3, 1902.

Genelia Allen,

Care Thomas Bros.,

Talihina, Indian Territory.

Dear Madam:

You are hereby notified that before any further action can be taken in the matter of your application for enrollment as a citizen by intermarriage of the Choctaw Nation it will be necessary for you to appear at the office of the Commissioner to the Five Civilized Tribes at Muskogee, Indian Territory, and give testimony relative to your intermarried status on September 25, 1902.

This matter should receive your immediate attention.

Respectfully,



Commissioner.

7-D-178.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, November 3, 1902.

Gamalia Allen,

Dexter, Indian Territory.

Dear Madam:

You are hereby notified that before any further action can be taken in the matter of your application for enrollment as a citizen by intermarriage of the Choctaw Nation it will be necessary for you to appear at the office of the Commissioner to the Five Civilized Tribes at Muskogee, Indian Territory, and give testimony relative to your intermarried status on September 25, 1902.

This matter should receive your immediate attention.

Respectfully,



Commissioner.

REFER IN REPLY TO THE FOLLOWING

7-D-178.

DEPARTMENT OF THE INTERIOR.
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, April 2, 1906.

Genelia Allen,

Dexter, Indian Territory.

Dear Madam:

You are hereby notified that before any further action can be taken in the matter of your application for enrollment as a citizen by intermarriage of the Choctaw Nation, it will be necessary for you to furnish this office with certain information relative thereto, and for this purpose there is enclosed you herewith a blank affidavit in interrogatory form, which you are directed to take before some Notary Public and answer under oath the questions therein propounded, returning same in the enclosed envelope, which requires no postage, at the earliest possible date.

Respectfully,

Acting Commissioner.

LEA 2/1.
Rnv.

Muskogee, Indian Territory, August 11, 1906.

Genelia Allen,

Havalia, Arkansas.

Dear Madam:

Receipt is hereby acknowledged of your letter of July 30, 1906, relative to the application for the enrollment of yourself and your child, Revilla Allen, as citizens of the Choctaw Nation.

You are advised that before further consideration can be given this application it will be necessary that you appear in person at the office of the Commissioner in Muskogee, Indian Territory, for the purpose of testifying relative to the right to the enrollment of yourself and your child, Revilla Allen, notice of the time of such appearance being first served upon the attorneys for the Choctaw and Chickasaw Nations.

This matter should receive your immediate attention.

Respectfully,

Commissioner.

Muskogee, Indian Territory, August 24, 1906.

Genelia Allen,
Havana, Arkansas.

Dear Madam:

Inclosed herewith you will find a copy of the decision of the Commissioner to the Five Civilized Tribes, rendered August 24, 1906, granting the application for your enrollment as a citizen by intermarriage of the Choctaw Nation, and the enrollment of Revilla Allen as a citizen by blood of said Nation.

The attorneys for the Choctaw and Chickasaw Nations have been furnished a copy of this decision and have been allowed fifteen days from the date of this notice within which to file protest against your enrollment. If at the expiration of that time no protest has been filed, the name of Genelia Allen will be placed upon the final roll of citizens by intermarriage of the Choctaw Nation, and the name of Revilla Allen will be placed upon the final roll of citizens by blood of said Nation, to be submitted to the Secretary of the Interior for his approval.

C Respectfully,

RECEIVED

Wm. O. Beall
Acting Commissioner.

Registered.

Incl. 7-D-178

Muskogee, Indian Territory, August 24, 1906.

Mansfield, McMurray & Cornish,

Attorneys for Choctaw and Chickasaw Nations,
South McAlester, Indian Territory.

Gentlemen:

Inclosed herewith you will find a copy of the decision of the Commissioner to the Five Civilized Tribes rendered August 24, 1906, granting the application for the enrollment of Genelia Allen as a citizen by intermarriage of the Choctaw Nation, and the enrollment of Revilla Allen as a citizen by blood of said Nation.

You are hereby advised that you will be allowed fifteen days from the date of this notice within which to file protest against their enrollment. If at the expiration of that time no protest has been filed, the name of Genelia Allen will be placed upon the final roll of citizens by intermarriage of the Choctaw Nation, and the name of Revilla Allen will be placed upon the final roll of citizens by blood of said Nation, to be submitted to the Secretary of the Interior for his approval.

Respectfully,

Wm. O. Boat
Acting Commissioner.

Registered.

Incl. 7-D-178.

Muskogee, Indian Territory, October 4, 1906.

Genelia Allen,

Havana, Arkansas.

Dear Madam:

Receipt is hereby acknowledged of your letter of September 24, 1906, asking to be notified when you can file for yourself and your daughter.

In reply to your letter you are advised that no protest having been filed against your enrollment by the attorneys for the Choctaw and Chickasaw Nations the names of yourself and your daughter Novilla Allen will be placed upon the next schedule of citizens by blood of the Choctaw Nation prepared for forwarding to the Secretary of the Interior, and you will be notified when your enrollment is approved by him.

You are advised that the matter of the payment of moneys to citizens of the Choctaw and Chickasaw Nations is within the jurisdiction of the United States Indian Agent and for information relative thereto you should address him at Muskogee, Indian Territory.

Respectfully,

Commissioner.

Muskogee, Indian Territory, August 24, 1906.

Genelia Allen,

Havana, Arkansas.

Dear Madam:

Inclosed herewith you will find a copy of the decision of the Commissioner to the Five Civilized Tribes, rendered August 24, 1906, granting the application for your enrollment as a citizen by intermarriage of the Choctaw Nation, and the enrollment of Revilla Allen as a citizen by blood of said Nation.

The attorneys for the Choctaw and Chickasaw Nations have been furnished a copy of this decision and have been allowed fifteen days from the date of this notice within which to file protest against your enrollment. If at the expiration of that time no protest has been filed, the name of Genelia Allen will be placed upon the final roll of citizens by intermarriage of the Choctaw Nation, and the name of Revilla Allen will be placed upon the final roll of citizens by blood of said Nation, to be submitted to the Secretary of the Interior for his approval.

C Respectfully,

Registered.

Incl. 7-D-178

Wm. C. Beall.
Acting Commissioner.

Muskogee, Indian Territory, August 24, 1906.

copy.

Mansfield, McMurray & Cornish,

Attorneys for Choctaw and Chickasaw Nations,

South McAlester, Indian Territory.

Gentlemen:

Inclosed herewith you will find a copy of the decision of the Commissioner to the Five Civilized Tribes rendered August 24, 1906, granting the application for the enrollment of Genelia Allen as a citizen by intermarriage of the Choctaw Nation, and the enrollment of Revilla Allen as a citizen by blood of said Nation.

You are hereby advised that you will be allowed fifteen days from the date of this notice within which to file protest against their enrollment. If at the expiration of that time no protest has been filed, the name of Genelia Allen will be placed upon the final roll of citizens by intermarriage of the Choctaw Nation, and the name of Revilla Allen will be placed upon the final roll of citizens by blood of said Nation, to be submitted to the Secretary of the Interior for his approval.

Respectfully,

Wm. C. Beall
Acting Commissioner.

Registered.

Incl. 7-D-178.

7-D-178.

Muskogee, Indian Territory, August 13, 1904.

Genelia Allen,

Dexter, Indian Territory,

Dear Madam:

You are hereby notified that before further consideration can be given your application for enrollment as an intermarried citizen of the Chickasaw Nation, it will be necessary for you to appear in person before the Commission to testify as to your intermarried status on September 25, 1902.

For this purpose you are requested to appear at Muskogee, Indian Territory, as soon as possible, or at the land office at Atoka, Indian Territory, on September the 6th or 7th, 1904, or at the land office at Tishomingo, Indian Territory, on September the 8th or 9th, 1904.

Respectfully,

Commissioner in Charge.

Choctaw D 178

Muskogee, Indian Territory February 12, 1904.

Genelia Allen,

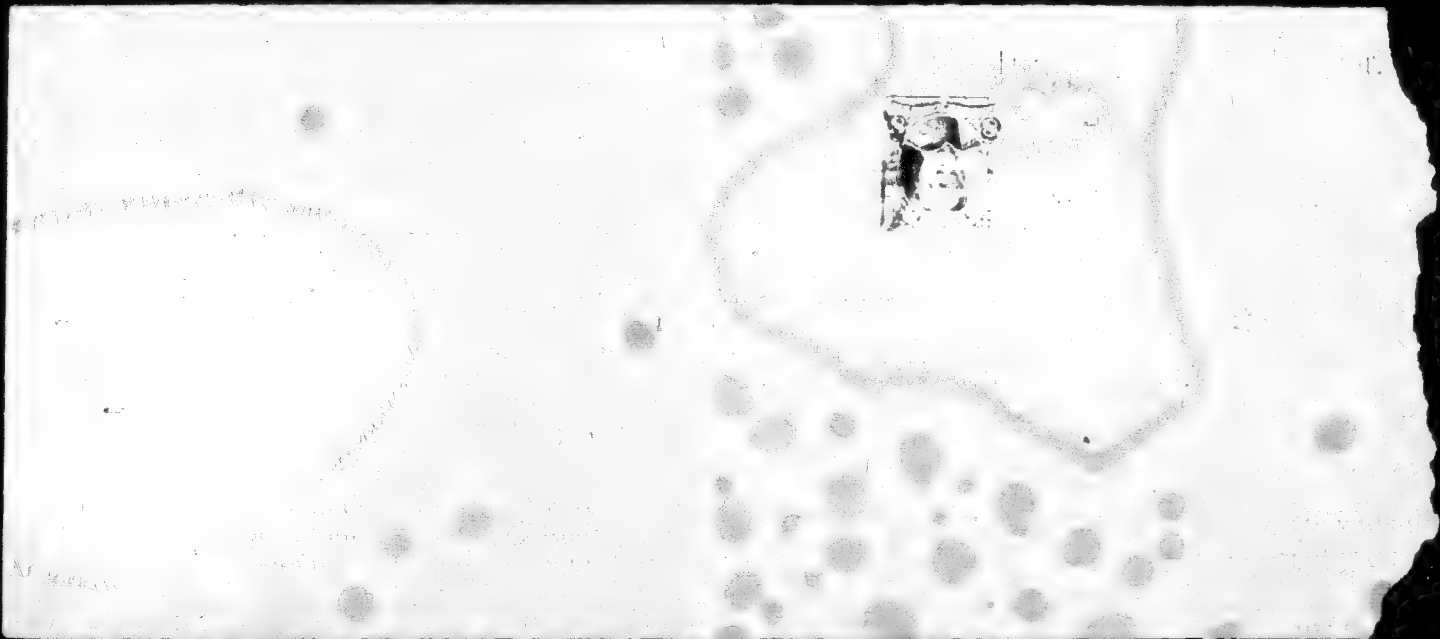
Dexter, Indian Territory,

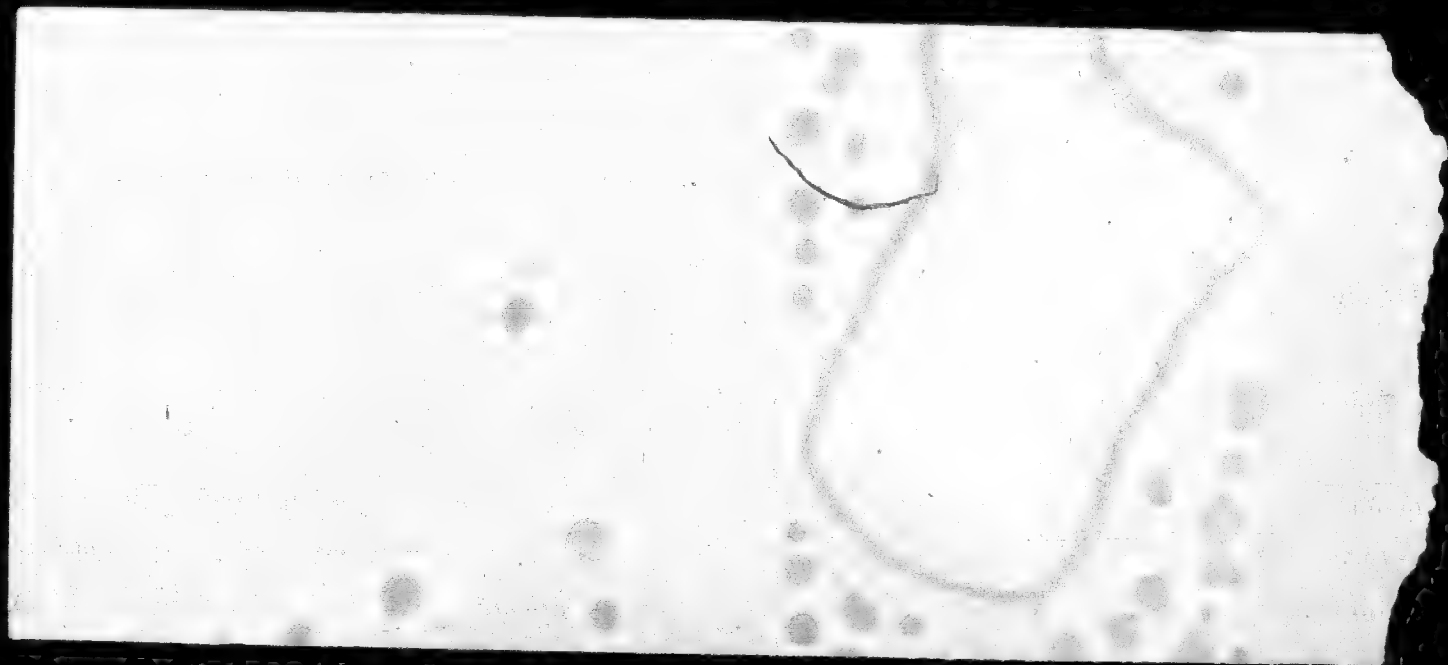
Dear Madam:

You are hereby advised that under direction of the Secretary of the Interior of November 18, 1903, and upon a protest filed with the Commission by the attorneys for the Choctaw and Chickasaw Nations dated January 23, 1904, no further action will be taken relative to the enrollment of yourself as a citizen by intermarriage, and of your minor child Revilla Allen as a citizen by blood, of the Choctaw Nation, until the Commission is further instructed by the Secretary of the Interior.

Respectfully,

Commissioner in Charge.





Choctaw 6039

Samuel Lee Langley

6039

Trans. from Choc #D717 7-25-06

**DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.**

Record in the matter of the application for the enrollment as a citizen by intermarriage of the Choctaw Nation of----

SAMUEL LEE LANGLEY --- 7-D-717.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, Indian Territory, May 7th, 1902.

In the matter of the application of Samuel Lee Langley
for enrollment as a citizen by intermarriage of the Choctaw Nation.
Samuel Lee Langley being first duly sworn testified as follows:

Examination by the Commission.

- Q What is your name? A Samuel Lee Langley.
Q How old are you? A Twenty-five.
Q What is your post-office address? A Terral.
Q Terral is in the Chickasaw Nation isn't it? A Yes sir.
Q How long have you lived in the Chickasaw Nation? A Just
off and on in both Nations, Choctaw and Chickasaw, for the last
seven years.
Q Where did you live before that? A Cornish.
Q Where is that? A In the Chickasaw Nation.
Q Before you lived in the Choctaw and Chickasaw Nations, where
did you live? A Gainesville.
Q Where is that? A In Texas.
Q Lived in Texas all your life until you moved to the Indian
Territory? A No sir, I was born in Arkansas and lived there a
year or two.
Q What is your father's name? A George B. Langley.
Q Is your father living? A No sir, he's dead.
Q What is your mother's name? A She's married again. Her
name is Sanders. Sarah Sanders.
Q Is your mother living? A Yes sir.
Q Your parents are both white persons? A Yes sir.
Q Neither of them ever made any claim to citizenship in any
tribe of Indians? A No sir.
Q You are a white man? A Yes sir.
Q A citizen of the United States? A Yes sir.
Q Have you ever made any claim to citizenship in any tribe
of Indians as a citizen by blood or have you ever received any
money as a member of any tribe of Indians? A No sir.
Q You are making application for enrollment as a citizen by
intermarriage of the Choctaw Nation? A Yes sir.
Q What is the name of your Choctaw wife? A Calcie Lee
Rubottom.
Q How old is she? A She is twenty I believe it is, next
August.
Q Where does she live? A She lives at Terral.
Q What is her father's name? A W. P. Rubottom.
Q What is her mother's name? A Matilda E. Rubottom.
Q Has your wife always lived in the Chickasaw Nation. A Yes
sir, she was born in the Chickasaw Nation I think. I aint sure
about that.
Q Since you have known her she has lived in the Chickasaw
Nation, has she? A Yes sir.
Q How long have you known her? A About four years.

The name of Calcie Lee Rubottom is found upon the
records of the Commission on Choctaw roll card,
field number 345 having been so listed on October 4,
1898, being identified from the 1896 census roll of
the citizens of the Choctaw Nation as a resident of
the Chickasaw District.

Samuel Lee Langley-2

Q When were you married to Calcie Lee Rubottom? A Under the United States law or the Indian law?

Q When were you first married to her? A In 1900.

Q What was the date of that marriage? A The 24th or 25th.

Q Of what month? A September.

There is on file with the records of the Commission the marriage license and certificate of S. L. Langley and Calcie Lee Rubottom under the United States law under date of November 25, 1900.

A It was November.

Q The United States license you were married under the only time you were ever married to this woman? A No sir, I was married under the Indian law.

Q Where did you obtain your Indian license? A At Caddo.

Q What nation is Caddo in? A Choctaw.

Q Your wife at the time you obtained the license was a resident of the Chickasaw Nation? A Yes sir.

Q You were a resident of the Chickasaw nation? A Yes sir.

Q How did you obtain a Choctaw license if your Indian wife was a resident of the Chickasaw Nation? A We came down here. We thought if she was a Choctaw she ought to marry under Choctaw license.

There is offered in evidence, filed and made a part of the records of this application a license issued by the Probate Clerk of Blue County, Choctaw Nation to Samuel Langley to marry Calcie Lee Rubottom, the same being dated May 6, 1902, attached thereto being the certificate of J. H. Goforth, County and Probate Judge of Blue County, to the marriage of Samuel Langley and Calcie Lee Rubottom. The marriage license and certificate being recorded with the records of Blue County, Choctaw Nation by P. E. Fulson, County Clerk, Blue County, Choctaw Nation.

Q How much did you pay for this license? A One hundred dollars.

Q Did you pay that much in cash for it? A Yes sir.

Q You have lived with your wife since your marriage in 1900? A Yes sir.

Q There has been no separation or divorce? A No sir.

Q Were you ever married to any other woman before you married her? A No sir.

Q Was she ever married to any other man? A Not that I know of.

Q You never heard of her being married to anybody else?

A No sir.

Q The license you obtained to marry Calcie Lee Rubottom was duly issued by the County Clerk of Blue County, Choctaw Nation, was it not, P. E. Fulson? A Yes sir.

Q The Choctaw law relative to the issuance of marriage licenses to non citizen white persons to marry citizens of the Choctaw Nation requires that the applicant shall obtain a certificate of good moral character signed by at least ten Choctaw citizens by blood who shall have been acquainted with him for twelve months immediately preceding the signing of such certificate. Now,

did you obtain the certificate of ten recognized and reputable Choctaw citizens to your petition for a marriage license? A Yes sir, but they hadn't known me twelve months.

Q How long had they known you? A They didn't know me at all.

Q How long had you known them? A The day I met them.

Q You never met them until the day you got this license?

A No sir.

Q Did you ever know any of these people? A None but the judge.

Q Who was the judge? A Goforth.

Q And he furnished you these people to sign the petition for the issuance of a license? A Yes sir, he helped me get up the petition.

Q Did you read the petition? A Yes sir.

Q Did the petition state that these ten people that signed it had known you intimately and had known you twelve months?

A No sir.

Q What did it say? A I don't know as I know it all by heart. It was to the clerk and contained something about my character sort of my good moral character.

Q How did they know that? A I couldn't tell you how they knew it.

Q They knew absolutely nothing about you? A No, they didn't know me at all.

Q Never had heard of you until the day this marriage license was issued? A No sir.

Q You and your wife have been living in the Chickasaw Nation for the past two years? A Yes sir.

Q Have never lived in the Choctaw Nation for the past two years? A No sir.

Q Been living in the western part of the Chickasaw Nation

A Yes sir. There was one, an Indian police that knew me a little. He had been in Terral.

Q How far is Terral from Caddo? A Something about a hundred miles. I don't know exactly.

Q Terral is the division point on the Rock Island railroad just before they cross into Texas isn't it? A Yes sir.

Q In the extreme south west part of the Chickasaw Nation?

A Yes sir.

Q And Caddo is in the southern part of the Choctaw Nation?

A Yes sir.

Q About two hundred miles apart? A It can't be that far. It only cost me three dollars and something or other railroad fare. Three dollars and thirty cents I believe it is.

Q Who were the ten Choctaws that signed your petition for a marriage license? A I couldn't remember their names.

Q Don't know any of them? A No sir I don't know their names.

Q Know absolutely nothing about them? A No sir, I just know them when I see them. I would know some of them when I see them and some of them I wouldn't.

Q And you never saw them until the day you got this license? A No sir.

Q Is there anything more you want to say? A No sir, that's all I reckon.

Myra Young, having been first duly sworn, upon her oath

Samuel Lee Langley 4

states that as stenographer to the Commission to the Five Civilized Tribes, she reported in full all proceedings had in the above entitled cause on the 7th day of May, 1902, and that the above and foregoing is a full, true and complete transcript of her stenographic notes of said proceedings on said date.

Myra Young.

Subscribed and sworn to before me this 7th day of May, 1902.

[Signature]
Notary Public.

Choctaw---D 717.

Department of the Interior,
Commission to the Five Civilized Tribes.
Ardmore, I. T., October 27, 1902.

In the matter of the application for enrollment as a citizen by intermarriage of the Choctaw Nation of Samuel Lee Langley.

Samuel Lee Langley being duly sworn testifies as follows:

Examination by the Commission.

- Q What is your name? A Samuel Lee Langley.
Q How old are you? A 25.
Q What is your post office address? A Courtney now.
Q How long have you resided in the Chickasaw Nation? A Going on my eighth year.
Q Lived here continuously for the past eight years? A Yes sir.
Q You are a white man? A Yes sir.
Q And an applicant for enrollment as a citizen by intermarriage of the Choctaw Nation? A Yes sir.
Q What is the name of your Choctaw wife? A Calcie Lee Rubottom.
Q She is a citizen by blood of the Choctaw Nation? A Yes sir.
Q Always recognized as such by the tribal authorities? A Yes sir.
Q Her rights as such have never in any manner been questioned? A No sir.
Q She has participated in all the payments of the tribe? A Yes sir.
Q When did you marry her? A In May of this year under Indian law.
Q You were married before that? A Yes sir, under United States law.
Q When? A 20th of November, three years ago.
Q Were you ever married prior to your marriage to Calcie Lee Rubottom? A No sir.
Q Was she ever married prior to your marriage? A No sir, not that I know of.
Q You say you were first married to this woman some two or three years ago? A Yes sir.
Q That was under United States license? A Yes sir.
Q Did you obtain that license from the clerk of the United States court? A Yes sir.
Q Then you remarried this same woman subsequently under a Choctaw license? A Yes sir.
Q Where were you living when you married her under United States license? A In the Territory.
Q What Nation? A Chickasaw Nation.
Q That was in 1900? A Yes sir, I think it was, three years ago this coming November.
Q Three or two years ago? A Three years ago,--- I may be mistaken,--- no only two years ago.
Q You state that you have lived in the Chickasaw Nation continuously for the past eight years? A Yes sir.

Samuel Lee Langley-----2

- Q Never have lived in the Choctaw Nation during that time? A No, only I have been in the Choctaw Nation working.
- Q How long have you continuously resided in the Chickasaw Nation? A Why, I can't hardly tell how long it has been since I have been out of it; it has been several years though.
- Q You have resided in the Chickasaw Nation continuously since your marriage to Calcie Lee Rubottom? A Yes sir.
- Q Have not made your home anywhere else? A No sir.
- Q She has always lived in the Chickasaw Nation? A Yes sir, ever since I have known her.
- Q You married her in the Chickasaw Nation in 1900? A Yes sir.
- Q Then you were afterwards remarried to this same woman? A Yes sir.
- Q Under what law? A Under Choctaw law.
- Q Where did you get that license? A In Blue County.
- Q How much did you pay for it? A Paid \$100.00.
- Q How long had you been residing in the Choctaw Nation? A I hadn't been there; I just went from Terrell and got the license right straight.
- Q Why did you not obtain a license here in the Chickasaw Nation? A I didn't know how to get it and wrote to the judge of that county, and I thought by her being a Choctaw she ought to marry under Choctaw law.
- Q You have lived with this woman continuously since your marriage to her in 1900? A Yes sir.
- Q Lived together as man and wife in the Chickasaw Nation? A Yes sir.
- Q Been no separation, desertion or divorce? A No sir.

W. H. Martin being duly sworn on oath states that as stenographer to the Commission to the Five Civilized Tribes he recorded in full the above proceedings at Ardmore, I. T., on the 27th day of October, 1902, and that the within and foregoing is a full, true and correct transcript of his stenographic notes in the same.

Subscribed and sworn to before me this 6 day of November, 1902.

W. H. Martin
C. Stephens
Notary Public.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED
MAY 7 1902



ACTING CHAIRMAN.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED
FEB 20 1901



ACTING CHAIRMAN

Certificate of Record of Marriage

UNITED STATES OF AMERICA, } scf.
INDIAN TERRITORY, }
Southern District.

I, C. M. CAMPBELL, Clerk of the United States
Court, in the Territory and District aforesaid, DO
HEREBY CERTIFY, that the License for and Cer-
tificate of Marriage of

Mr. J. L. Langley and
M. Calcie Bottom

were filed in my office in said Territory and Dis-

trict the 28th day of Nov. A. D. 1902

and duly recorded in Book C. of

Marriage Record, Page 183

WITNESS my hand and Seal of said Court, at

Admore, this 1st day

of Dec. A. D. 1902

C. M. Campbell
C. M. CAMPBELL, CLERK.

Return this License to the United States Clerk at Ad-
more, that it may be recorded, when it will be mailed
to the proper address.

Marriage License

United States of America,
INDIAN TERRITORY
SOUTHERN DISTRICT.

To Any Person Authorized by Law
to Solemnize Marriage, Greeting:

You Are Hereby Commanded To solemnize the Rite and publish the
Banns of Matrimony between Mr. *J. L. Langley*
of *Cornish* in the Indian Territory, aged *23* years and
M. *Calvin Ribbathorn* of *Courtney*
in the Indian Territory, aged *18* years, according to law, and do
you officially sign and return this License to the parties therein named.

Witness My hand and official Seal, this *20* day
of *Nov.* A. D. 190*0*

C. M. Campbell
Clerk of the United States Court

Certificate of Marriage.

UNITED STATES OF AMERICA,
INDIAN TERRITORY,
SOUTHERN DISTRICT.

I, *J. J. King*
Minister,

do hereby certify, that on the *21st* day of *Nov.* A. D. 190*0*,

I did duly and according to law, as commanded in the foregoing License, solemnize the Rite and
publish the Banns of Matrimony between the parties therein named.

WITNESS my hand, this *27th* day of *Nov.* A. D. 190*0*

My credentials are recorded in the office of the Clerk of the United States Court, Indian
Territory, Southern District, at Ardmore, Book *B*, Page *23*

(NOTE.—The person officiating should fill in the spaces
for book and page and sign here.)

J. J. King
Minister of Gospel

NOTE (a) — This License and Certificate of Marriage must be returned to the office of the Clerk of the United States Court in the
Indian Territory, at Ardmore, within sixty days from the date thereof, or the party to whom the License was issued
will be liable in the amount of One Hundred Dollars (\$100.)

NOTE (b) — No person is authorized to perform the Marriage Ceremony in the Southern District unless the proper credentials have
first been recorded in the Clerk's office.

✓

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100

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1000

1000

INDIAN TERRITORY
Blue County, Choctaw Nation

I, _____, Clerk of the County Court of said county, do hereby certify that the foregoing instrument of writing, dated the _____ day of _____, 189____, with its Certificate of Authentication, was filed for record in my office on the _____ day of _____, 189____, at _____ o'clock _____ M., and duly recorded this _____ day of _____, 189____, at _____ o'clock _____ M., in the records of said County, in Volume _____ on Pages _____.
WITNESS my hand and seal of the County Court of said county, at office in Caddo, the day and year last above mentioned.

Clerk County Court, Blue County

J.H. S. Goforth

Samuel S. Goforth

6th

May

6th

May

1892

as Clerk Sec. K. B. Goforth

T. R.

J.H. S. Goforth

County of Choctaw, State of Mississippi
Clerk of the County Court

MARRIAGE LICENSE

THE CHOCTAW NATION,

County of Blue,

TO ANY JUDGE OF THE COUNTY OR DISTRICT COURT, REGULAR LICENSED OR ORDAINED MINISTER OF THE
GOSPEL OF THE CHOCTAW NATION, Greeting:

You are hereby authorized to solemnize the rites of matrimony between Mr. *Samuel Langley*
and Miss *Calais Lee Rubottom*, Certifying your actions under this license.

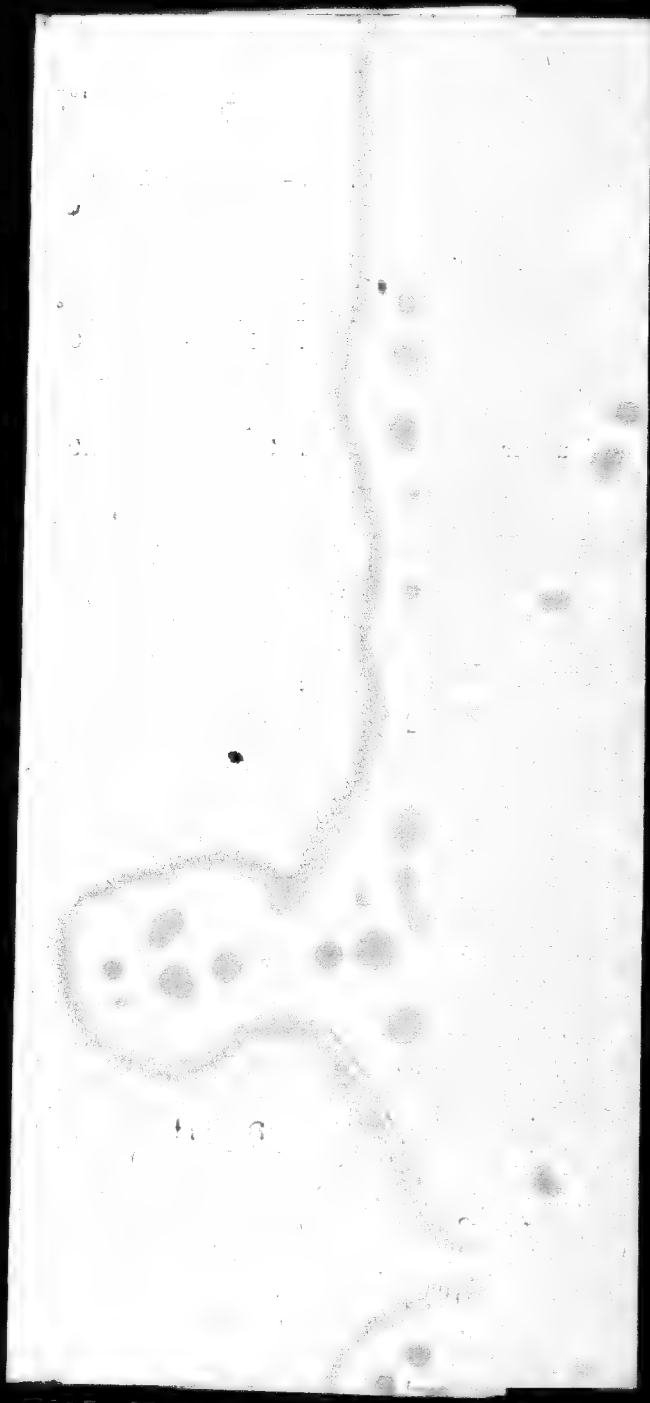
Witness my official signature and seal of office at my office in Caddo, this *6* day of *May* A. D. *1902*

County and Probate Clerk, Blue Co.

I *J. H. Goforth* hereby certify that on the *6th* day of *May* A. D. *1902* united in
marriage Mr. *Samuel Langley* and Miss *Calais Lee Rubottom* the parties above
named.

Witness my hand this *6th* day of *May* A. D. *1902*

J. H. Goforth
County & Probate Judge of Blue
County Choctaw Nation



BEFORE THE COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of Samuel Lee Langley as a citizen by intermarriage of the Choctaw Nation, Choctaw Field No. D-717.

We hereby request, on behalf of the Choctaw and Chickasaw Nations, that final decision in this case be postponed until final decision by the Choctaw and Chickasaw Citizenship Court in the case of Preston Early, et al., vs. Choctaw and Chickasaw Nations, No. 64 on the South McAlester Docket, in which the said court will decide the question of the citizenship rights by intermarriage, if any, of those white persons who intermarried with citizens by blood of the Choctaw Nation not in accordance with the tribal laws, which question is involved in the case to which this communication refers.

This request is filed under authority granted by the Honorable Secretary of the Interior in his communication to the Commission to the Five Civilized Tribes upon the subject, dated November 18, 1903.

Wayland W. Morsey
Attorneys for the Choctaw and Chickasaw Nations.

January 23, 1904.

1.
7-D-717

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of Samuel Lee Langley as a citizen by intermarriage of the Choctaw Nation.

7

D E C I S I O N .

It appears from the record herein that on May 6, 1902, the applicant, Samuel Lee Langley, was married in accordance with the laws, customs, and usages of the Choctaw Nation to Calcie Lee Rubottom, a recognized and enrolled citizen by blood of the Choctaw Nation, whose name (as Calcie Lee Langley) appears as No. 14622 upon a list prepared by the Commission to the Five Civilized Tribes, under the provisions of the Act of Congress approved July 1, 1902 (32 Stats., 641), of persons entitled to enrollment as citizens by blood of the Choctaw Nation, and approved by the Secretary of the Interior on May 20, 1903; that at the time of said marriage, both persons above mentioned were residents in good faith of the Chickasaw Nation, and that they have resided continuously in said Nation, as husband and wife, from the date of their said marriage up to and including September 25, 1902.

I am, therefore, of the opinion that, following the decision of the Commission to the Five Civilized Tribes in the case of Whit M. Waide (7-5955), Samuel Lee Langley should be enrolled as a citizen by intermarriage of the Choctaw Nation, under the provisions of the Acts of Congress approved June 28, 1898 (30 Stats., 495) and July 1, 1902 (32 Stats., 641), and it is so ordered.



Commissioner.

Muskogee, Indian Territory,

JUL 9 - 1906

7-D-717

Muskogee, Indian Territory, July 9, 1906.

Samuel Lee Jangley,

Tonolowick, Indian Territory.

Dear Sir:

Enclosed herewith you will find a copy of the decision of the Commissioner to the Five Civilized Tribes, rendered July 9, 1906, granting your application for enrollment as a citizen by intermarriage of the Choctaw Nation.

The attorneys for the Choctaw and Chickasaw Nations have been furnished a copy of the decision and have been allowed fifteen days from the date of this notice within which to file protest against your enrollment. If at the expiration of that time no protest has been filed, your name will be placed upon the final roll of citizens by intermarriage of the Choctaw Nation to be submitted to the Secretary of the Interior for his approval.

Respectfully,

Tamm C. Smith

Commissioner.

Registered.

Encls. 7-D-717

7-D-717

Muskogee, Indian Territory, July 9, 1906.

copy

Cruce, Cruce & Blackmore,

Attorneys at Law,

Ardmore, Indian Territory.

Gentlemen:

You are hereby notified that the Commissioner to the Five Civilized Tribes, on July 9, 1906, rendered his decision granting the application for the enrollment of Samuel Lee Langley as a citizen by intermarriage of the Choctaw Nation.

The attorneys for the Choctaw and Chickasaw Nations have been furnished a copy of said decision and have been allowed fifteen days from the date of this notice within which to file protest against the enrollment of the above named applicant. If at the expiration of that time no protest has been filed, his name will be placed upon the final roll of citizens by intermarriage of the Choctaw Nation to be submitted to the Secretary of the Interior for his approval.

Respectfully,

James Bixby

Commissioner.

Registered.

7-D-717

Muskogee, Indian Territory, July 9, 1906.

Cham Jones,

Attorney at Law,

Ryan, Indian Territory.

Dear Sir:

You are her by notified that the Commissioner to the Five Civilized Tribes, on July 9, 1906, rendered his decision granting the application for the enrollment of Samuel Lee Langley as a citizen by intermarriage of the Choctaw Nation.

That attorneys for the Choctaw and Chickasaw Nations have been furnished a copy of said decision and have been allowed fifteen days from the date of this notice within which to file protest against the enrollment of above named applicant. If at the expiration of that time no protest has been filed, his name will be placed upon the final roll of citizens by intermarriage of the Choctaw Nation to be submitted to the Secretary of the Interior for his approval.

Respectfully,

SIGNED

Commissioner.

Registered.

7-D-717^

Muskogee, Indian Territory, July 9, 1906.

Ansfield, Mc Murray & Connish,

Attorneys for the Choctaw and Chickasaw Nations,
South McAlester, Indian Territory.

Gentlemen:

Enclosed herewith you will find a copy of the decision of the Commissioner to the Five Civilized Tribes, rendered July 9, 1906, granting the application for the enrollment of Samuel Lee Tangle as a citizen by intermarriage of the Choctaw Nation.

You are hereby advised that you will be allowed fifteen days from the date of this notice within which to file protest against the enrollment of this applicant. If at the expiration of that time no protest has been filed, his name will be placed upon the final roll of citizens by intermarriage of the Choctaw Nation to be submitted to the Secretary of the Interior for his approval.

Respectfully,

Commissioner.

Registered

Encl. 7-D-717.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of
Samuel Lee Langley as a citizen by intermarriage of the Choctaw
Nation.

DECISION.

It appears from the record herein that on May 6, 1902, the applicant, Samuel Lee Langley, was married in accordance with the laws, customs, and usages of the Choctaw Nation to Calcie Lee Rubottom, a recognized and enrolled citizen by blood of the Choctaw Nation, whose name (as Calcie Lee Langley) appears as No. 14622 upon a list prepared by the Commission to the Five Civilized Tribes, under the provisions of the Act of Congress approved July 1, 1902 (32 Stats., 641), of persons entitled to enrollment as citizens by blood of the Choctaw Nation, and approved by the Secretary of the Interior on May 20, 1903; that at the time of said marriage, both persons above mentioned were residents in good faith of the Chickasaw Nation, and that they have resided continuously in said Nation, as husband and wife, from the date of their said marriage up to and including September 25, 1902.

I am, therefore, of the opinion that, following the decision of the Commission to the Five Civilized Tribes in the case of Whit M. Waide (7-5955), Samuel Lee Langley should be enrolled as a citizen by intermarriage of the Choctaw Nation, under the provisions of the Acts of Congress approved June 28, 1898 (30 Stats., 495) and July 1, 1902 (32 Stats., 641), and it is so ordered.

Tamc D. Dyer

Commissioner.

Muskogee, Indian Territory,

JUL 9 - 1906

7-D-717

Muskogee, Indian Territory, December 9, 1903.

Sam Langley,

Terral, Indian Territory.

Dear Sir:

Receipt is hereby acknowledged of your letter of December 1, asking if your enrollment as an intermarried Choctaw has been approved.

In reply to your letter you are informed that the Commission has not yet passed upon the application of Sam Lee Langley for enrollment as an intermarried citizen of the Choctaw Nation. As soon as a decision is reached in this case you will be notified of the action taken therein.

Respectfully,

Chairman.

Choctaw D 717

Muskogee, Indian Territory, February 10, 1904.

Samuel Lee Langley,

Terral, Indian Territory.

Dear Sir:

You are hereby advised that under direction of the Secretary of the Interior of November 18, 1903, and upon a protest filed with the Commission by the attorneys for the Choctaw and Chickasaw Nations dated January 23, 1904, no further action will be taken relative to your enrollment as a citizen by intermarriage of the Choctaw Nation until the Commission is further instructed by the Secretary of the Interior.

Respectfully,

Commissioner in Charge.

Muskogee, Indian Territory, January 23, 1905.

Sam Langley,

Terral, Indian Territory.

Dear Sir:

Receipt is hereby acknowledged of your letter of January 19, 1905, asking if you have been approved. You state that you have two children born since September 25, 1902, and ask how to proceed to have them enrolled.

In reply to your letter you are informed that the Commission has not yet passed upon your application for enrollment as an intermarried citizen of the Choctaw Nation, but as soon as a decision is reached you will be notified of the action taken.

You are further informed that under the provisions of the act of Congress approved July 14, 1902, no children born to citizens of the Choctaw and Chickasaw Nations subsequent to September 25, 1902, the date of the ratification of said act, are entitled to enrollment and allotment in the Choctaw and Chickasaw Nations.

Respectfully,

Chairman.

7-D-717

Muskogee, Indian Territory, April 8, 1905.

Chas Jones,

Attorney at Law.

Ryan, Indian Territory.

Dear Sir:

Receipt is hereby acknowledged of your letter of April 3, 1905, in which you ask what is necessary to be done in the matter of the application of Samuel Lee Langley for enrollment as an intermarried citizen of the Choctaw Nation.

In reply to your letter you are informed that the Commission has not yet passed upon the application of Samuel Lee Langley for enrollment as an intermarried citizen of the Choctaw Nation, but in event further evidence is necessary to determine his rights the applicant will be duly notified.

Respectfully,

Commissioner in Charge.

7-D-717

Muskogee, Indian Territory, September 21, 1905.

Cruce, Cruce & Bleakmore,
Attorneys at Law,
Araders, Indian Territory.

Gentlemen:

Replying to your letter of the 18th instant, you are advised that no action has as yet been taken upon the application of Samuel Lee Langley for enrollment as a citizen by intermarriage of the Choctaw Nation.

The record in this case is apparently complete and the same is now receiving the consideration of the Commissioner. It is probable that some action will be taken thereon in the near future.

Respectfully,

Acting Commissioner.

Choctaw D 717

Muskogee, Indian Territory, October 4, 1905.

R. M. Allen,

Dalhart, Texas,

Dear Sir:

Receipt is hereby acknowledged of your letter of September 28, asking if the case of Samuel Lee Langley has yet been passed upon, and stating that contest was filed by him against certain land selected by you in allotment.

In reply to your letter you are advised that no decision has yet been reached in the matter of the application of Samuel Lee Langley for enrollment as an intermarried citizen of the Choctaw Nation.

Respectfully,

Commissioner.

7-D-717

Muskogee, Indian Territory, March 9, 1906.

Cruce, Cruce & Bleakmore,
Attorneys at Law,
Ardmore, Indian Territory.

Gentlemen:

Receipt is hereby acknowledged of your letter of March 2, 1906, in which you ask the status of the application for the enrollment of Samuel L. Langley as an intermarried citizen of the Choctaw Nation.

In reply to your letter you are advised that this case is still receiving consideration and when a decision is reached you will be notified of the action taken therein.

Respectfully,

Acting Commissioner.

Choctaw 6040

Melvina Forbes

Record trans from Choc #D938

OCT 10, 1906

6040

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment as a
citizen by blood of the Choctaw Nation of

MELVINA FORBES.....7-D-938.

Original
Choctaw
Delinquent.

Department of the Interior.
Commission to the Five Civilized Tribes.
Garvin, Indl. Ter., Nov. 25, 1902.

In the matter of the application for the enrollment as
a citizen by blood of the Choctaw Nation of Melvina Forbes.

Albert Forbes, having been first duly sworn, upon his oath
testifies as follows:

Examination by the Commission.

- Q What is your name? A Albert Forbes.
Q How old are you? A About sixty.
Q What is your post office address? A Garvin, Indian Territory.
Q Do you know Melvina Forbes? A Yes sir.
Q How old is she? A Going on fourteen.
Q What is the name of her father? A Buddy Durant.
Q Is he living or dead? A He is living.
Q Is he a citizen by blood of the Choctaw Nation? A Yes sir.
Q What is the name of her mother? A Martha Mack.
Q Was she a citizen by blood of the Choctaw Nation? A No, she was
a white woman.
Q Is she living or dead? A Dead long ago.
Q Is Melvina Forbes any kin of yours? A No, but her mother was
kin to my wife.
Q What relation was her mother to your wife? A Cousin.
Q Who does Melvina Forbes live with? A Lives with me, born right
there at my house.
Q And always lived with you? A Always lived with me.
Q Was she living with you in 1893? A Yes sir.
Q Did you draw the 1893 leased district payment money for her? A No
she never got that money.
Q Did you try to get the 1893 leased district money for her? A No,
I never tried.
Q Were Buddy Durant and the mother of the child married? A No.
Q Were they living as man and wife at that time? A No.
Q Did Buddy Durant ever help support this child? --by giving
you any money for her? A No, he gave it to the girl.
Q Did he ever buy her any clothing? A No.
Q Did he ever come to see her? A Yes, he come to see her.
Q Does he claim her as his own child? A Never heard him say.

(The name of this child appears on the 1896 Choctaw Census
roll, page 102, No. 4217, as Melvina Forbis.)

- Q Did you adopt Melvina Forbes? A Yes sir.
Q Did you have papers made in the Choctaw Courts? A Yes sir, it is
recorded in the Choctaw Clerk's office.
Q County Clerk of Red River County? A Yes.
Q When did you do this? A About six or seven years ago.

(This child, Melvina Forbes, is before the Commission and
has all the characteristics of an Indian, and appears to
be a full blood Choctaw. Straight black hair, black eyes,
high cheek bones.)

Melvina Forbes-----2

Harry C Risteen, being first duly sworn, upon his oath states: That as stenographer to the Commission to the Five Civilized Tribes he reported in full all proceedings had in the above entitled cause on the 25th day of November, 1902, and that the above and foregoing is a full, true and correct transcript of his stenographic notes of said proceedings on said date.

H. C. Risteen

Subscribed and sworn to before me this 15 day of December, 1902.

P. E. Bolger
Notary Public.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

Idabel, Indian Territory, April 27, 1906.

In the matter of the application for the enrollment of
Melvina Forbes D - 938.

Testimony taken in Garvin, Indian Territory, April 19,
1906.

ALBERT FORBES, being duly sworn, testified as follows:
through interpreter Jacob Homer.

BY THE COMMISSIONER:

- Q What is your name? A Albert Forbes.
Q What is your age? A About 68.
Q What is your post office address? A Garvin, I.T.
Q Are you a citizen by blood of the Choctaw Nation? A Yes, sir.
Q Are you acquainted with Melvina Forbes? A Yes.
Q Who is the father of Melvina Thomas? A Buddy Durant.
Q Is Buddy Durant living or dead?
A Dead.
Q When did he die?
A He died about a month ago.
Q Was Melvina Forbes mother Martha Mack and a white woman?
A Yes.
Q Did Buddy Durant during his life time claim to be the father
of Melvina Forbes? A Not to me.
Q Did he ever in any manner help maintain and support the child?
A Very little; sometimes he give her two bits or fifty cents or
a hankercloth; I was the one that raised that child from three
years old; I clothed, fed and sent her to school.
Q Did you legally adopt Melvina Forbes according to Choctaw law?
A Yes.
Q You procured the necessary papers of adoption from the County
Clerk of Red River County, did you?
A Yes, sir.
Q Who was Clerk of Red River County at that time?
A Wilson Shoney.
Q Who was County Judge at the time?
A Mack Brown; he is dead now.
Q Is Wilson Shoney now living; if so, give his post office ad-
dress.
A I think he now lives at Kullituklo.
Q Did the County Clerk of Red River County issue papers to you
in this case of adoption? A Yes.
Q Have you those papers now?
A No, I have not; they got lost or burned up some way.
Q Did you adopt this child as your daughter, and did she assume
your name, and is that the reason she assumed your name?
A Yes.
Q How old was Melvina when you adopted her as your daughter?
A I think she was about four or five.

In Re Melvina Forbes -- #2.

- Q Who at present is County Clerk of Red River County?
A I do not know.
Q Do you know who is County Judge? A No, I do not.
Q How do you know that Buddy Durant was the father of Melvina?
A I asked the mother whose child it was, and she said Buddy Durant's.
Q Did you ask Buddy Durant whether or not Melvina was his child?
A I asked him but he did not say.
Q In the adoption of this child did you consult Buddy Durant and get his permission on the presumption that he was the father?
A Yes, I saw Buddy Durant down at Old Garvin, and I told him Melvina's mother had told me that he was Melvina's father, and I said, "You ought to adopt her, and if you can not, give her to me and I will adopt her," and he says, "You have not got any children and I have got plenty, and you can adopt her," and so I did.
Q Were you represented by an attorney when you made application to adopt Melvina Forbes; if so, who was the attorney?
A Simon Taylor, a Choctaw lawyer.
Q Is Simon Taylor now living? A Yes.
Q What is his present post or office? A Garvin.

Witness Excused.

Testimony taken in Garvin, I. T., April 11, 1900.

SIMON TAYLOR, being duly sworn, testified as follows:

BY THE COMMISSIONER:

- Q What is your name? A Simon Taylor.
Q What is your post office address? A Garvin, I. T.
Q What is your age? A 33.
Q Are you a citizen by blood of the Choctaw Nation?
A Yes, sir.
Q Are you acquainted with Albert Forbes? A Yes, sir.
Q Do you know his adopted daughter, Melvina Forbes?
A Yes, sir.
Q Who was the father of Melvina Forbes?
A Buddy Durant, it was said.

Q Was Buddy Durant a citizen by blood of the Choctaw Nation?
A Yes.
Q Is he now living? A Dead.
Q When did he die?
A About three weeks ago, I think.
Q Where did he die?
A He died in Texarkana.
Q Were you acquainted with the mother of Melvina Forbes?
A Yes, sir.
Q What was her name? A Martha Mack.
Q Was she a citizen by blood of the Choctaw Nation or a white woman? A White woman.
Q Was she at any time the lawful wife of Buddy Durant? A No, sir.
Q Did you represent Albert Forbes at the time he made application to have Melvina Forbes adopted as his daughter? A Yes, sir.
Q In what County did Albert Forbes reside at that time?
A Red River County.
Q Who was County Clerk of Red River County at the time you filed the petition for Albert Forbes?
A I believe it was Wilson Shoney, as well as I can recollect.

In Re Melvina Forbes, ---#3.

- Q Did said application remain on file in the office of the County Clerk of Red River County for thirty days, without any legal or just cause being shown why the petition should not be granted? A Yes, sir.
- Q Did the County Judge, after the expiration of the thirty-day period aforesaid, grant said application? A Yes.
- Q Is the same a matter of record in the County Clerk's Office of Red River County? A Yes, sir.
- Q Do you remember what year this petition was filed and granted? A No, I do not remember now, I have forgotten; it was one of my first cases and was when I was something like twenty years old.
- Q Where, at present, are the records of the County Clerk of Red River County? A Up at Tushkahoma, the capital of the Choctaw Nation, in charge of the National Secretary.
- Q Were said records carried to Tushkahoma and placed in the files of the Choctaw capitol in anticipation of the dissolution of Tribal Government? A Yes.
- Q Are you personally well acquainted with Melvina Forbes? A Yes.
- Q Has she well-defined characteristics of a mixed blood Choctaw? A Yes.
- Q Does she speak Choctaw? A Yes.
- Q How long have you been engaged in the practice of law before the Choctaw Courts? A About 14 years.

Witness here cites, on Page 146 of Durant's Code of the Laws of the Choctaw Nation, compiled in 1894, Paragraph 8 of Section 6, under caption of "County Courts and Courts of Probate," the following law regarding the matter of procedure in cases of adoption of illegitimate or orphan children, to-wit: "Any person or persons who may wish to adopt any illegitimate or orphan child or children shall file a petition to that effect with the County Clerk of the County they may reside in, which shall remain on file for thirty days; if no legal or just cause is shown why the petition shall not be granted, then the County Judge shall grant the petition and cause the same to be recorded in the County Clerk's office, after which the adoption shall be as binding as if done by special act of the General Council."

- Q About what age was Melvina at the time Albert Forbes adopted her? A She was very small then, about 4 or 5 years old. I think
- Q Has Albert Forbes, since the adoption of this child, acted in the capacity of father, provided food, shelter and clothing and had the child partially educated? A Yes.
- Q Do you know whether Buddy Durant claimed to be the real father of Melvina Forbes or not? A No, I do not know about that.

Witness Excused.

W. P. Covington, being duly sworn, states that the above and foregoing is a full, true and correct transcript of his stenographic notes taken in said case on said date.

W. P. Covington

Subscribed and sworn to before me, this 27th day of April,

1906.

Lacey P. Bolo
Notary Public.

to serve notice upon the Attorney of the Governor of the Commonwealth

and the Commissioner for enough money to give him the necessary

and the necessary and proper expenses of the said

and the necessary and proper expenses of the said

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DEPARTMENT OF THE INTERIOR.

Commissioner to the Five Civilized Tribes.

In re application of
Melvina Forbes for
enrollment as a citizen
by blood of the Choctaw
Nation.

Your petitioner respectfully represents and shows to the Honorable Commissioner: That it is impossible for her father to appear before the Commissioner at Muskogee, I.T. to give in his evidence in the matter of her enrollment for the reason that he is unable to travel, see letter attached hereto, and made part hereof, That Ed. Forbes and-----Forbes, his father were present at her house at her birth. That the residence of these witnesses is a long distance from Muskogee, I.T. and for all these reasons your petitioner would respectfully ask that she be allowed to take depositions at Garvin, I.T. at some time certain to be fixed by the Honorable Commissioner for enough ahead to allow your petitioner to serve notice upon the Attorney of the Choctaw and Chickasaw Nations.

C. B. Weeks

Of Counsel for Petitioner.

[illegible]

1111

MAR -3 1906

W H WYMAN, General Agent

W PHARFORD, Asst Genl Agent

ALMA INSURANCE COMPANY

GEO. M. BARRETT
Agent

Garvin, I. T. 2/27/1906.

Mr. E. A. Newman,
Atoka, Ind. Ter.

Dear Sir:-

Melvina Forbes, has just handed your letter of the 23rd, relative to her application for enrollment, to me, requesting me to answer same for her.

Replying beg to say that it is impossible for her father to be present as he is not able to travel, however, if it will do, we can send you his deposition. No Dr. was present at Melvina's birth. My mother was the midwife, but she is dead. I and my Father were both present, as we all lived in the same house at the time, and can testify as to her birth. These are all of those living who were present at her birth.

Very Respect.

Ed Forbes

Comm

Commissioner.

EDWARD H. WILSON.
SECRETARY CHOCTAW NATION

Case No 64.

Choctaw Nation In Reg Term Co Court Red River County held at Kullituklo kaunti Court artafama he aihupiesa Nov4th 1895. fehna Court at itafamat chieya hosh Anumpa nan asilha No 64 yatukma isht bohli cha yakma chit anukfillishke Albert Forbes ut petition bohli tukla anumoa asanali nana kia iksho ho nituk pokoli tuchina ka onah tok atuko court ut yakmichit apesashke . ulla ulhtakla Milvina hochiffo iluppout afummi (3) ho ilshi tok osh ilawili na hi mak a ulla yaummut afummie (6) kaatampout mahaya hatukosh itti halulli ulla holitopa ka artilawi hokbono ahni tuka im aokpuchishke yohmi cha himak oila mahaya hokono Milvina Forbes hochiffo hachi muko apesa isht ach unachit ilawili micha itti holulli ulla im ahashwa ka ai itti lawit Albert Forbes nana immi poyutta ka aiba eyishi kut aitolawi banot follota chi muko Court mukosh apisashke.

Given under my hand this 4th day of November 1895

M. J. Brown, County Judge.

Attest

W. A. Shoney, County Clerk.

This is to Certify That the above and foregoing
is a full and correct copy of the Adoption of Milvina Forbes
as shown by the Official Records of Red River County Choctaw
Dated 1894 to 1896. and on page 263.

Intestimony whereof I, Edward H. Wilson, National Secretary
Choctaw Nation do hereby affix my official signature this the
4th Day of September 1906.

E. H. Wilson

National Secretary Choctaw Nation

Case No. 64

Choctaw Nation.
Red River County.

In regular term of County
Court held at Kullituklo.

County Court convenes in its regular term, November 4th 1895, wherein a petition is submitted and considered.

Whereas, petition of Albert Forbes has been on file for thirty days without any legal opposition, the Court renders decision accordingly. That an orphan child named Milvina was three years old when taken by said petitioner and kept until said child is now past six years old, the desire to legalize the child as set forth in the petition is hereby granted, and shall, hereafter, be known by the name of Milvina Forbes and shall be entitled to all rights, privileges and immunity conferred upon her.

Given under my hand this 4th, November 1895.

H. J. Brown, County Judge.

Attest:

W. A. Shoney, County Clerk.

Department of the Interior.
Office of the Supt. for Five Civilized Tribes.
Muskogee, Oklahoma.

I, Oshorn Anderson, Choctaw interpreter for the Office of the Superintendent for the Five Civilized Tribes, do hereby certify that the above and foregoing is a true and correct translation of the record of the adoption case number 64 as shown on page 263 of the Red River County Court Record Book, from the Choctaw into English language.

This the 30th day of September 1916.

Oshorn Anderson
Interpreter.

DEPARTMENT OF
COMMISSIONERS

FILED

A stylized, handwritten signature in dark ink, possibly reading "J. H. [unclear]".

Commissioner

10. (10.30)

Case No. 61.

Settled Term County Court of
Red Deer County, British Columbia.
Held at Medicine Hat, Alberta
Nov. 4, 1895.

And now in answer to the
petition of Emma Fortes, who
is the daughter of the late
John Fortes, deceased.

This case is heard on file
in this Court, showing
that the said Emma Fortes
is the daughter of the late
John Fortes, deceased, and
that she is the only child
of the said John Fortes, deceased,
and that she is the only
child of the said John Fortes,
deceased, who is now living.
It is therefore, ordered to be granted.

And the grant is made as the petitioners asked
daughter Emma Fortes. (Over)

Therence, the above is true C.

Don't know if this is the
same as the one in the
1000 (California)

etc.

RECEIVED
Commissioner, to the
FILED

[Signature]

Commissioner

Red Oak Hotel

D. W. LAMBERT, Proprietor

Case No 64.

RED OAK, IND. TER.,

1906

Alfred Forbes Petitioner.

To-wit: J. C. Brown County and Probate Judge,
J. Paul H. Brown County

Christian - Nation.

From County of Brown, Ind. Court:-

Hereby I do petition I
have to be made guardian
of the girl mentioned.

Her mother died and
I have been and I take this
(Child).

I do - Court will grant
this petition for me, I want
to adopt this girl, name
and I will send her to school and
name her as her own father.

When I first took this
girl in my charge, she was
three years of age. Now she
is little over six years old.

RECEIVED
COMMUNICATIONS

F. I. B. D.

1905

Red Oak Hotel

D. W. LAMBERT, Proprietor

2. Case No. 64.

RED OAK, IND. TER.

1906

So I am, and the
part of me which I
have to leave now. This
part will be kind to
read as a whole. I have
a good copy of the
original text.

(The name I Albert Jones
name is written in the
text now.)

Translation by
Jacob Home,
Interpreter.

DEPARTMENT OF
Commissioner to the

RECEIVED

SEP 21 1906



Commissioner.

>

Case No 64.

Albert Forbes Petitioner.

Choctaw Nation to the Hon Red River
County . M. J. Brown and Probate Judge .

Holitopa Co micha ulhtakla I Court ishbinili ma, Yohmi ka Anumpa
nan asilhha ekbit chitikba chi bohleli ka yakohmishke, yohmi
ka ulla ulla tek hohchiffo Melvina illappa ishke ut oloal afumi
ushla foyoka kosho illi toko ano yokosh ulla yamma ilawilit
hofantichit tahleli hosh, yohma heyoba hukma ulla tek hohchiffo
Melvina illappa itiholilili ulla amikbi na micha Court ut holitob
-lichit ano yako subuk foke na ano yokosh ilawelit holisso apisa
puyutta kia nan eshten anukfelet elaw lili hukbono ahnit chim
asilhha lishke, yohmi ka ulla tek yamat himaka afomi hanali atampa
foka hoke, ulla yama ishili umona ka afomi tuchina tokoke, Yohmi
tuko anumpa nan asilha chi bohleli ka ayukpanchit issamayukpachi
na ulla tek yamat hohchifo kut himak pilla okono Melvina Forbes
achi ho micha nan umi puyotta hoka asabahaluli hukbuno ahnit
anukchietut anumpa asilhha chi bohlelishke, Elbushut nan chim
asilhha Albert Forbes .

Sworn to and subscribed beforeme September 2ond 1895.

M. J. Brown Co Judge .

Filed Sept 2ond 1895. W.A. Shoney County Clerk

this is to certify that the above and foregoin is a full and correct copy
of the Petition of Albert Forbes as shown by the Official Records Dated 1894-
to 1896. of Red River County Choctaw Nation , on Page 140.
Intestimony whereof. I Edward H. Wilson National Secretary Choctaw Nation do
hereby affix my Official Signature this the 4th Day of September 1906.
Edward H. Wilson National Secretary Choctaw Nation.

7-7-930.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of
Melvina Forbes as a citizen by blood of the Choctaw Nation.

DECISION.

It appears from the record herein that on November 25, 1902, application was made to the Commission to the Five Civilized Tribes for the enrollment of Melvina Forbes as a citizen by blood of the Choctaw Nation.

The evidence in this case shows that the applicant is a Choctaw by blood and was born in about the year 1860; and that she is the illegitimate daughter of Buddy Durant (now deceased), a Choctaw by blood, and Martha Mack, a non-citizen white woman.

Upon an examination of the tribal rolls of the Choctaw Nation in the possession of this office, it appears that the applicant is identified upon the 1890 Choctaw Census Roll, Red River County, No. 4217, enrolled thereon as a citizen by blood.

I am, therefore, of the opinion that Melvina Forbes should be enrolled as a citizen by blood of the Choctaw Nation, under the provisions of the Acts of Congress approved June 20, 1898 (30 Stat. s., 495) and July 1, 1902 (37 Stat. s., 641), and it is so ordered.



Commissioner.

Muskogee, Indian Territory,

Muskogee, Indian Territory, September 25, 1906.

Melvina Forbes,

X Albert Forbes,

Garvin, Indian Territory.

Dear Madam:

Inclosed herewith you will find a copy of the decision of the Commissioner to the Five Civilized Tribes, rendered September 24, 1906, granting the application for your enrollment as a citizen by blood of the Choctaw Nation.

The attorneys for the Choctaw and Chickasaw Nations have been furnished a copy of this notice within which to file protest against your enrollment. If at the expiration of that time no protest has been filed, the name of Melvina Forbes will be placed upon the final roll of citizens by blood of the Choctaw Nation to be submitted to the Secretary of the Interior for his approval.

Respectfully,

Tamc Bixby

Commissioner.

Registered.

Incl. 9-D-938

7-D-938

Muskogee, Indian Territory, September 26, 1906.

A. Newman,

Atoka, Indian Territory.

Dear Sir:

You are hereby notified that the Commissioner to the Five Civilized Tribes, on September 24, 1906, rendered his decision granting the application for the enrollment of Melvina Forbes as a citizen by blood of the Choctaw Nation.

The attorneys for the Choctaw and Chickasaw Nations have been furnished a copy of the decision and have been allowed fifteen days from the date of this notice within which to file protest against her enrollment. If at the expiration of that time no protest has been filed, the name of Melvina Forbes will be placed upon the final roll of citizens by blood of the Choctaw Nation to be submitted to the Secretary of the Interior for his approval.

Respectfully,

SIGNED James D. Barry

Commissioner.

Registered.

U. S. DEPARTMENT OF THE INTERIOR, BUREAU OF INDIAN AFFAIRS, SEPTEMBER 5, 1906.

Thomas J. Jones,

Aramora, Indian Territory.

Dear Sir:

You are hereby notified that the Commission of the Five Civilized Tribes, on September 1, 1906, rendered its decision granting the application for the enrollment of Melvina Forbes as a citizen by blood of the Choctaw Nation.

The attorneys for the Choctaw and Chickasaw Nations have been furnished a copy of the decision and have been allowed fifteen days from the date of this notice within which to file protest against her enrollment. If at the expiration of that time no protest has been filed, the name of Melvina Forbes will be placed upon the final roll of citizens by blood of the Choctaw Nation to be submitted to the Secretary of the Interior for his approval.

Respectfully,

Commissioner.

Registered.

COEX

Washogee, Indian Territory, September 25, 1906.

H. A. Apple,

Attorney at Law,

Washogee, Indian Territory.

Dear Sir:

You are hereby notified that the Commissioner to the Five Civilized Tribes, on September 24, 1906, rendered his decision granting the application for the enrollment of Melvina Forbes as a citizen by blood of the Choctaw Nation.

The attorneys for the Choctaw and Chickasaw Nations have been furnished a copy of the decision and have been allowed fifteen days from the date of this notice within which to file protest against her enrollment. If at the expiration of that time no protest has been filed, the name of Melvina Forbes will be placed upon the final roll of citizens by blood of the Choctaw Nation to be submitted to the Secretary of the Interior for his approval.

Respectfully,

James E. Smith

Commissioner.

Registered.

7-D-938

Muskogee, Indian Territory, September 25, 1906.

Mansfield, McMurray & Cornish,

Attorneys for Choctaw and Chickasaw Nations,

McAlester, Indian Territory.

Gentlemen:

Inclosed herewith you will find a copy of the decision of the Commissioner to the Five Civilized Tribes, rendered September 24, 1906, granting the application for the enrollment of Melvina Forbes as a citizen by blood of the Choctaw Nation.

You are hereby advised that you will be allowed fifteen days from the date of this notice within which to file protest against her enrollment. If at the expiration of that time no protest has been filed, the name of Melvina Forbes will be placed upon the final roll of citizens by blood of the Choctaw Nation to be submitted to the Secretary of the Interior for his approval.

Respectfully,

James S. Kirby

Commissioner.

Registered.

Incl. 7-D-938.

Choctaw D 938

Muskogee, Indian Territory, December 1, 1904.

W. A. Newman,

Atoka, Indian Territory,

Dear Sir:

Receipt is hereby acknowledged of your letter of November 28, asking the status of the enrollment of Melvina Forbes as a citizen by blood of the Choctaw nation and in reply you are advised that the Commission has not yet passed upon the application of Melvina Forbes for enrollment as a citizen by blood of the Choctaw Nation.

Respectfully,

Commissioner in Charge.

Chectaw D 938

Muskogee, Indian Territory, December 15, 1904.

R. A. Newman,

Atoka, Indian Territory,

Dear Sir:

Receipt is hereby acknowledged of your letter of December 10, asking the status of Melvina Forbes, ward of Albert Forbes, a citizen by blood of the Choctaw Nation.

In reply to your letter you are advised that the Commission has not yet passed upon the application of Melvina Forbes, ward of Albert Forbes, for enrollment as a citizen by blood of the Choctaw Nation.

Respectfully,

Chairman.

7-D-938.

Muskogee, Indian Territory, February 16, 1906.

E. A. Newman,
Attorney at Law,
Atoka, Indian Territory.

Dear Sir:

You are hereby notified that before any further action can be taken in the matter of the application for the enrollment of Melvina Forbes as a citizen by blood of the Choctaw Nation, it will be necessary for her alleged father to appear at the office of the Commissioner to the Five Civilized Tribes and give testimony relative to the parentage of said child.

It will be necessary, however, before such testimony can be heard that Mansfield, McMurray & Cornish, the attorneys for the Choctaw and Chickasaw Nations, of South McAlester, Indian Territory, be notified of the date of said appearance.

Kindly give this matter your immediate attention.

Respectfully,

Acting Commissioner.

7-D-938.

Muskogee, Indian Territory, February 16, 1906.

Albert Forbes,

Garvin, Indian Territory.

Dear Sir:

You are hereby notified that before any further action can be taken in the matter of the application for the enrollment of your adopted daughter, Melvina Forbes, it will be necessary for her alleged father, Buddy Durant, to appear at the office of the Commissioner to the Five Civilized Tribes at Muskogee, Indian Territory, and give testimony relative to the parentage of said child.

It will be necessary, however, before such testimony can be heard that Mansfield, McMurray & Cornish, the attorneys for the Choctaw and Chickasaw Nations, of South McAlester, Indian Territory, be notified of the date of said appearance.

Kindly give this matter your immediate attention.

Respectfully,

Acting Commissioner.

6040
7-3500

Muskogee, Indian Territory, March 21, 1906.

J. B. Weeks,

Atoka, Indian Territory.

Dear Sir:

Receipt is hereby acknowledged of your letter of February 28, 1906, asking that you be permitted to take the deposition of witnesses in support of the application of Malvina Forbes for enrollment as a citizen of the Choctaw Nation.

In reply to your letter you are advised that a representative of the Commissioner to the Five Civilized Tribes now in the field has been directed to secure testimony in the matter of the application for the enrollment of Malvina Forbes as a citizen of the Choctaw Nation. It will not now therefore be necessary for you to introduce the deposition of witnesses therein.

Respectfully,

Acting Commissioner.

7-D-939

Muskogee, Indian Territory, August 24, 1906.

S. A. Apple,
Attorney at Law,
Armore, Indian Territory.

Dear Sir:-

Receipt is hereby acknowledged of your letter of August 17, 1906, in which you state that you have been employed by Melvina Forbes, of Armore, Indian Territory, to represent her in the matter of her application for enrollment as a citizen by blood of the Choctaw Nation. You, therefore, request that you be furnished a copy of the testimony now on file, and that your name be entered as attorney of record in this case.

In reply you are advised that a copy of the testimony in this case has heretofore been furnished the parties in interest and there is now no extra copy of such testimony on file. It will, therefore, be impracticable to comply with your request.

You are informed, however, that the case is now receiving consideration and you will be notified when a decision is rendered.

Respectfully,

Acting Commissioner.

7-D-938

Muskogee, Indian Territory, August 24, 1906.

Thomas Norman,

Attorney at Law,

Ardmore, Indian Territory.

Dear Sir:-

Receipt is hereby acknowledged of your letter of August 10, 1906, in which you state that you have been employed to represent Melvina Forbes in the matter of her application for enrollment as a citizen by blood of the Choctaw Nation. You, therefore, request that you be furnished a copy of the testimony now on file, and that your name be entered as attorney of record in this case.

In reply you are advised that a copy of the testimony in this case has heretofore been furnished the parties in interest and there is now no extra copy of such testimony on file. It will, therefore, be impracticable to comply with your request.

You are informed, however, that the case is now receiving consideration and you will be notified when a decision is rendered.

Respectfully,

Acting Commissioner.

RECEIVED
COMMISSIONER
F. F. ...

1906


Commissioner.

(C O P Y)

Case No. 64.

Albert Forbes Petitioner.

To Hon. M. J. Brown, County and Probate Judge, of Red River County.
Choctaw Nation.

Hon. County and Orphan's Court:

Here is a petition I present before you regarding this
girl Melvina.

Her mother died four years ago, and I took this child.

So if Court will grant this petition for me, I want to
adopt this girl, Melvina and put her in school and raise her as her
own father.

When I first took this girl in my charge, she was three
years of age. Now she is little over six years old.

So if you grant this petition for me, which I present
before you, this girl will be known from now on as Melvina Forbes,
also she can have part of my interest.

Therefore I, Albert Forbes, your Petitioner supplicate
before you.

Translation by Jacob Homer, Interpreter.

Choctaw 6041
George Russell

Record trans. from Choc[#]R-258
9-15-06

6041

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment as a
citizen by intermarriage of the Choctaw Nation of

GEORGE RUSSELL.....7-R-258.

Department of the Interior,

Commission to the Five Civilized Tribes.

I hereby certify, upon my official oath as stenographer to above named Commission, that this transcript is a true, full and correct translation of my stenographic notes.

MD Green

Commission to the Five Civilized Tribes,

South Canadian, Indian Ter. *9/15/99*

In the enrollment of George Russell as an intermarried Choctaw; being sworn and examined by Com'r McKennon he states:

Q What is your name? A George Russell.

Q How old are you? A Twenty-nine.

Q You present here a license issued by the Clerk of Jackson County, dated December 24th 1895, to marry Ellen Goins, with a certificate of marriage of December 25th 1895, she was a Choctaw citizen was she? A Yes sir.

Q How long did you live with her? A Five days, she just got on her horse and rode off and left me.

Q Then she got a divorce from you? A Yes sir.

Q You don't know why she got on her horse and rode off?

A No sir, she was drunk when she went off.

Q Were you sober? A Yes sir.

Q How long had you known her before you married her? A About three months.

Q Did you know she got drunk? A No sir; she got on a horse behind another man and rode off.

Q Who was the other fellow? A Simon Jones.

Q And she never came back? A No sir.

Q Have you ever seen her since? A Yes sir.

Q Did you ever try to get her to live with you? A Yes sir, two or three weeks after that.

Q You forgave her for getting drunk and going off behind another fellow, and wanted her to live with you as your wife? A Yessir, I tried to get her to live with me.

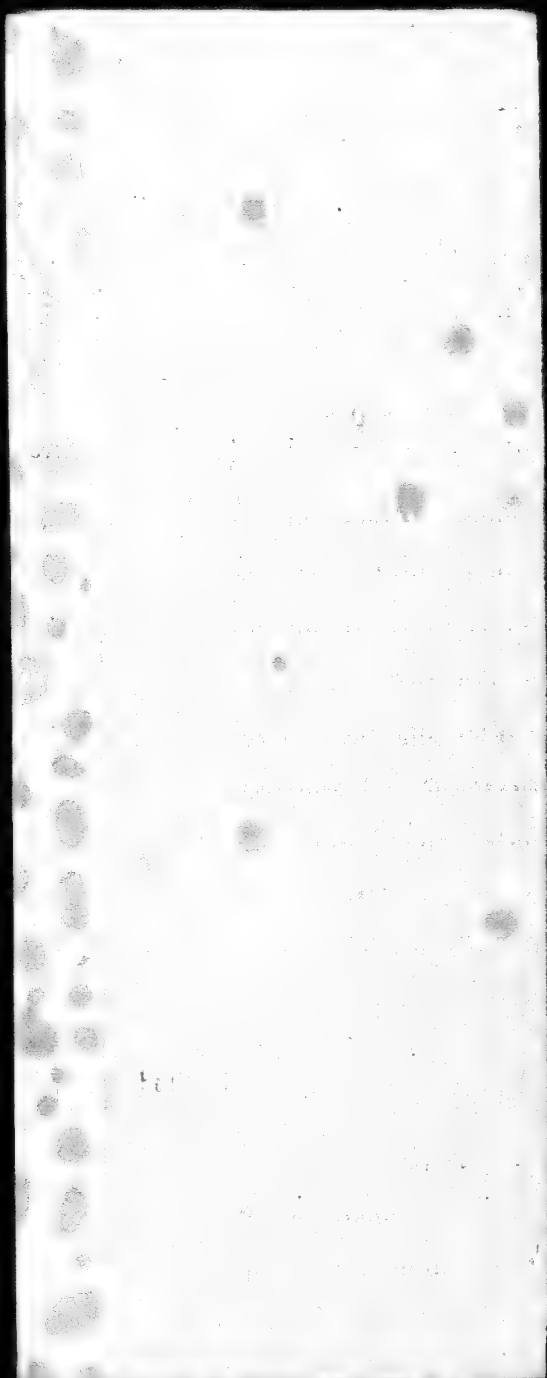
Examined by Judge Shuckelford:

Q What grounds did she get a divorce on? A I don't know.

Examined by Choc Com'r Lewis: Q Haven't you married again?

A Yes sir.

Com'r McKennon: Enrollment is refused.

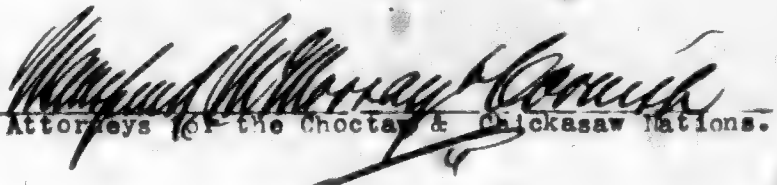


BEFORE THE COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for enrollment as a citizen of the Choctaw Nation of George Russell, Choctaw Field No. R-258.

We hereby request, on behalf of the Choctaw and Chickasaw Nations, that final decision in this case be postponed until final decision by the Choctaw and Chickasaw Citizenship Court in the case of B. F. Thompson vs. Choctaw and Chickasaw Nations, No. 38 on the South McAlester Docket, in which the said court will decide the question of the validity of the intermarriage laws of the Choctaw Nation providing for the forfeiture of citizenship of white persons who separate from their Indian spouses, which question is involved in the case to which this communication refers.

This request is filed under authority granted by the Honorable Secretary of the Interior in his communication to the Commission to the Five Civilized Tribes upon the subject, dated November 18, 1903.


Attorneys for the Choctaw & Chickasaw Nations.

January 23, 1904.

Choctaw 1-116.

In the matter of the arrestment
of George Russell and a citizen
of the Choctaw Nation.

Attorney of
Choctaw and Chickasaw Nations

FEB 6

Choctaw

5

Department of the Interior,
Commissioner to the Five Civilized Tribes.
Muskogee, Indian Territory, August 15, 1906.

In the matter of the application for the enrollment of
George Russell as a citizen by intermarriage of the Choctaw Nation.

S. A. Apple, attorney at law, Ardmore, Indian Territory,
appears on behalf of the applicant.
No appearance on behalf of the Choctaw and Chickasaw Na-
tions.

Attorney for applicant presents notice showing service
upon Mansfield, McMurray & Cornish, notifying them that on
this date the applicant would appear before the Commissioner
to the Five Civilized Tribes and give testimony relative to
his right to enrollment as a citizen by intermarriage of the
Choctaw Nation.

GEORGE RUSSELL, being first duly sworn, testified as follows:

Examination by the Commissioner:

- Q What is your name? A George Russell.
Q How old are you? A Thirty-six years old.
Q What is your post office? A Stuart is my post office.
Q Is that in the Choctaw or Chickasaw Nation? A Choctaw.
Q Why is it you haven't appeared before this time? A Why, I
appeared before the Commissioner, and I have been waiting to see
what they would do about it.
Q Have you been living at Stuart ever since 1898? A No sir.
Q Through whom do you claim your right to enrollment as a citizen
by intermarriage of the Choctaw Nation? A The woman you mean
I married?
Q Yes? A Ellen Goens.
Q What was she? A She was Choctaw Indian.
Q When did you marry her? A I married her in 1895.
Q Where were you living at that time? A I was living in Jackson
County.
Q How long had you lived there? A I had lived there---I been
there about three months at that place.
Q How long had you lived in the Choctaw Nation before you married
Ellen Goens? A Why, I had been there somewhere about a year
and a half as well as I recollect, in the Choctaw.
Q Where did you live before you lived in the Choctaw Nation?
A Lived in the Chickasaw Nation.
Q Did you get a tribal license to marry Ellen Goens? A Yes sir.
Q How much did you pay for it? A \$100.00.

- Q Who issued it to you? A Daniel Wade.
Q What county? A Jackson County.
Q Who married you? A Preacher married me; I forget his name; it is on the license.
Q Have you a copy of your license and certificate? A Yes sir.
Q What is the date of your marriage, the exact date? A It was the 25th day of December.
Q What year? A 1895.

Witness offers in evidence the original marriage license and certificate, showing his marriage to Ellen Goens.

- Q How long did you live with Ellen Goens? A Five days.
Q Then what happened? A She just got on her horse and left.
Q Did you live with her after that? A No sir.
Q Where did you live together those five days? In the Choctaw Nation?
A Yes sir.
Q Did you ever secure a divorce from her? A No sir.
Q Did she from you? A Yes sir.
Q Where was that divorce granted? A It was in Jackson County.
Q Were you served with notice? A No sir.
Q How do you know she got a divorce? A They told me she did.
Q Have you remarried since that time? A Yes sir.
Q Who did you marry? A Married Eugenia Martin.
Q What was she, a white woman or Indian? A White woman.
Q What year did you marry her? A It was in 1897, I think; I am not right sure.
Q Where did you move to after Ellen Goens left you? A I moved up in the north part of the Choctaw Nation at Indianola.
Q How long did you live there? A I lived there four years.
Q Then where did you move to? A I moved to the Chickasaw Nation, then.
Q How long did you live there? A Lived there a year.
Q Then where did you go? A I went to Oklahoma a while.
Q What year did you go to Oklahoma? A 1903.
Q Did you live in the Choctaw and Chickasaw Nations all the time before that? A Yes sir.
Q Where were you born? A Born in Missouri.
Q What is the name of your mother? A Virginia Casto.
Q What is the name of your father? A James Russell.
Q Both white people? A Yes sir.
Q Citizens of the United States? A Yes sir.
Q Either of them living? A Mother is living.
Q How old were you when you came to the Indian Territory the first time? A I was about twelve years old.
Q Moved here with your parents? A Yes sir.
Q Where did you move to? A What nation?
Q Yes? A Cherokee Nation first.
Q How long did you live in the Cherokee Nation? A Lived there two years.
Q Then where did you go? A Went from there to Texas, and was over three years in Texas.
Q Then where did you go? A Moved back to the Chickasaw Nation.
Q Now, what year was it you moved to the Chickasaw Nation?
Q Well, it was in 1895, I believe it was.
Q What time of the year? A Well, it was along in the Spring.

- Q Before the crops had been planted or after? A No, it was along about May as well as I recollect.
- Q May, '93? A Yes sir.
- Q And you were married in December, 1895? A Yes sir.
- Q Did you secure a certificate of good moral character from the citizens of the Choctaw Nation, when you got your license?
- A Yes sir.
- Q How many signers did you have? A Ten.
- Q Had you been married before you married Ellen Goens? A No sir.
- Q Had she? A No sir.

By Mr. Apple:

- Q Where was it you made your first application to the Commission?
- A South Canadian.
- Q Do you know what member of the Commission was in charge; what man took your application? A Mr. Cannon, I believe.
- Q Can you give the names of any of the ten Choctaws who signed your recommendation for a license? A Yes sir.
- Q Name some of them? A One was Isaac Cole.
- Q Another one? A Felin LeFlore.
- Q Name another one? A Reuben Durant.
- Q Another? A Joe Tish, Fisher Frazier, Lewis Jackson, Simon Jones, Alfred Bacon, Gibson Bastutay.

By the Commissioner:

- Q Is Ellen Goens living at this time? A I don't know, sir.
- Q Did she remarry after you left her? A Not that I know of.
- Q What was the name of Ellen Goens father? A I don't know, sir.
- Q What is the name of her mother? A I don't know that.
- Q Did Ellen Goens ever go by any other name? A No sir, not that I ever knew of.
- Q Did you ever hear of her name as being Ellen Woods? A No sir.
- Q Did she have any brothers and sisters? A No sir.
- Q Did you have any children by her? A No sir.
- Q Did Ellen Goens have any children before you married her?
- A She had two?
- Q Had she been married? A No sir.
- Q Were they illegitimate children? A Yes sir.
- Q Do you know the names of either of those children? A No sir, I don't know their names.
- Q They were living when you married her weren't they? A Yes sir, one of them was.
- Q What was that child's name? A Well, sir, I forget the name.

Ellen Goens is identified upon the 1893 Choctaw Leased District Payment Roll, Jackson County, No. 281, and also upon the 1896 Choctaw Census Roll, Jackson County, No. 10884.

- Q How far do you live from Hugo? A I don't know where Hugo is.
- Q Did you ever hear of your wife being called Ellen Woods?
- A No sir.
- Q She is enrolled on the 1893 Leased District Payment Roll as Ellen Goens, and her name is also given as Ellen Woods. Do you know of her ever living with a man by the name of Woods? A No sir.

- Q Did you ever hear of her being married to a man by the name of Bacon? A No sir.
- Q Don't you know she had a child by the name of Ellen Bacon who was born in 1893? A I knowed she had a child; I don't know when it was born.
- Q How long had you known her before you married her? A About three months.
- Q As a matter of fact do you know whether she had been married before you married her? A No sir, I told you I didn't know.
- Q No, you made a statement that she hadn't been married before. Now, I want to know whether you know or not? A She told me she hadn't been married; that is all I know about it.

Ellen Goens, through whom the applicant claims intermarried rights, is identified upon Choctaw Field Card No. 1440, and opposite her name appears the notation "Dead".

By Mr. Apple:

- Q In what county did your wife live at the time you married her? A Jackson County.
- Q Do you know how long she had lived in Jackson County? A No, I don't.
- Q Was she well known by the older settlers in that vicinity? A Yes sir.
- Q Did you go and apply to the Choctaw Clerk in person for your license? A Yes sir.
- Q Do you know whether he examined his records at that time to see whether she had been married before? A No, I don't know.

(Witness excused.)

Lenora B. Ashton, as stenographer to the Commissioner to the Five Civilized Tribes, on oath states that she reported the testimony in the above entitled cause on the 15th day of August, 1906, and that the above and foregoing transcript is a true and complete translation of her stenographic notes.

Lenora B. Ashton.

Subscribed and sworn to before me this 16th day of August, 1906.

W. D. Chappell
Notary Public

MARRIAGE LICENSE.

To all whom these presents shall come, greeting know ye that I, in
pursuance of an application George A. Smith
a citizen of the United States for a license to marry Miss
Ellen Goss a citizen of the Choctaw Nation the
same being in due form and satisfying the requirements of the laws of
said Nation in reference to inter-marriage with non-citizens; and by
virtue of the authority vested in me: do hereby issue this license for the
above named parties to be joined together in matrimony.

Witness my hand and official seal this 11th day of

Dec.

A.D. 1895

D. J. Wade

CERTIFICATE OF SOLENNIZATION.

This is to certify that, I, in accordance with the above authority,
have united Mr. George A. Smith and
Ellen Goss the parties mentioned in the
above license on this the 11th day of Dec.

1895

Recorded Book

652

this 27 day of Dec.

pp

188

D. J. Wade
Clerk of Court

DEPT OF THE INTERIOR
1861

AD

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of
George Russell as a citizen by intermarriage of the Choctaw Nation.

DECISION.

It appears from the census card record in this case that on September 15, 1899, application was made to the Commission to the Five Civilized Tribes for the enrollment of George Russell as a citizen by intermarriage of the Choctaw Nation.

It further appears from the record herein that on December 25, 1895, the applicant, George Russell, was married in accordance with the laws, customs and usages of the Choctaw Nation to Ellen Goens (now deceased), a recognized and enrolled citizen by blood of the Choctaw Nation, who is identified upon the 1893 Choctaw Leased District Payment Roll, Jackson County, No. 281, and also upon the 1896 Choctaw Census Roll, Jackson County, No. 10884; that at the time of said marriage both persons above mentioned were residents in good faith of the Choctaw Nation; that they lived together as husband and wife in said nation for a period of about five days, when they separated and were subsequently divorced; and that said applicant has resided continuously in the Choctaw-Chickasaw country from the date of said marriage up to and including September 25, 1902.

I am, therefore, of the opinion that George Russell should be enrolled as a citizen by intermarriage of the Choctaw Nation, under the provisions of the Acts of Congress approved June 23, 1898 (30 Stats., 495) and July 1, 1902 (32 Stats., 641), and it is so ordered.



Commissioner.

Muskogee, Indian Territory,

AUG 31 1906

7-R-258

Muskogee, Indian Territory, August 31, 1906.

George Russell,

Stroud, Indian Territory.

Dear Sir:

Inclosed herewith you will find a copy of the decision of the Commissioner to the Five Civilized Tribes, rendered August 31, 1906, granting your application for enrollment as a citizen by intermarriage of the Choctaw Nation.

The attorneys for the Choctaw and Chickasaw Nations have been furnished a copy of this decision and have been allowed fifteen days from the date of this notice within which to file protest against your enrollment. If at the expiration of that time no protest has been filed, the name of George Russell will be placed upon the final roll of citizens by intermarriage of the Choctaw Nation to be submitted to the Secretary of the Interior for his approval.

Respectfully,

Acting Commissioner.

Registered.

Incl. 7-R-258.

Muskogee, Indian Territory, August 31, 1906

S. A. Apple,

Attorney at Law,

Ardmore, Indian Territory.

Dear Sir:

You are hereby notified that the Commissioner to the Five Civilized Tribes, on August 31, 1906, rendered his decision granting the application for the enrollment of George Russell as a citizen by intermarriage of the Choctaw Nation.

The attorneys for the Choctaw and Chickasaw Nations have been furnished a copy of the decision and have been allowed fifteen days from the date of this notice within which to file protest against his enrollment. If at the expiration of that time no protest has been filed, the name of George Russell will be placed upon the final roll of citizens by intermarriage of the Choctaw Nation to be submitted to the Secretary of the Interior for his approval.

Respectfully,

Acting Commissioner.

Registered.

7-R-258

Muskogee, Indian Territory, August 31, 1906

Mansfield, McMurray & Cornish,
Attorneys for Choctaw and Chickasaw Nations,
McAlester, Indian Territory.

Gentlemen:

Inclosed herewith you will find a copy of the decision of the Commissioner to the Five Civilized Tribes, rendered August 31, 1906, granting the application for the enrollment of George Russell as a citizen by intermarriage of the Choctaw Nation.

You are hereby advised that you will be allowed fifteen days from the date of this notice within which to file protest against his enrollment. If at the expiration of that time no protest has been filed, the name of George Russell will be placed upon the final roll of citizens by intermarriage of the Choctaw Nation to be submitted to the Secretary of the Interior for his approval.

Respectfully,

T. S. ...
Acting Commissioner.

Registered.

Incl. 7-R-258

C. S. Rogers
every post
for every
at sea,
that he was
the ship
had been
lost.
The
it was
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ship.

DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

AUG 15 1906

Postmaster, pay

DEPARTMENT OF THE INTERIOR
COMMISSIONER TO THE FIVE CIVILIZED TRIBES

In the matter of the application for the enrollment of George Russell, as a citizen by intermarriage of the Choctaw Nation.

N O T I C E :

TO MANSFIELD, McMURRAY & CORNISH,

Attorneys for the Choctaw and Chickasaw Nations:

You are hereby notified that on Wednesday, August 15th 1906, at 9 o'clock, A. M., or on that date at the convenience of the Commissioner to the Five Civilized Tribes, evidence will be introduced before said Commissioner, at his offices in Muskogee, I. T., in the matter of the application for the enrollment of George Russell a citizen by intermarriage of the Choctaw Nation.

S. A. Apple
Attorney for Applicant.

INDIAN TERRITORY,
SOUTHERN DISTRICT

I, S. A. Apple, attorney for the above named applicant, state on oath that I have this day mailed a copy of the foregoing notice to Mansfield, McMurray & Cornish, at South McAlester, I.T., and attach hereto registry receipt, from the postmaster at Ardmore, I.T., as evidence of same.

Letter

No. 300

P.O.

Received for registration

1906, from

addressed to

Mansfield, McMurray & Cornish
South McAlester, I.T.

1
less postage prepaid

Postmaster, per

DEPARTMENT OF THE INTERIOR
COMMISSIONER TO THE FIVE CIVILIZED TRIBES

In the matter of the application for the enrollment of George Russell, as a citizen by intermarriage of the Choctaw Nation.

N O T I C E :

TO MANSFIELD, McMURRAY & CORNISH,

Attorneys for the Choctaw and Chickasaw Nations:

You are hereby notified that on Wednesday, August 15th 1906, at 9 o'clock, A. M., or on that date at the convenience of the Commissioner to the Five Civilized Tribes, evidence will be introduced before said Commissioner, at his offices in Muskogee, I. T., in the matter of the application for the enrollment of George Russell a citizen by intermarriage of the Choctaw Nation.

S. A. Apple
Attorney for Applicant.

INDIAN TERRITORY,
SOUTHERN DISTRICT

I, S. A. Apple, attorney for the above named applicant, state on oath that I have this day mailed a copy of the foregoing notice to Mansfield, McMurray & Cornish, at South McAlester, I. T., and attach hereto registry receipt, from the postmaster at Ardmore, I. T., as evidence of same.

S. A. Apple
Subscribed and sworn to before me this 2nd day of August, 1906.

F. D. Kelley Notary Public.

NAME

Russell, George

6.11.11

N. ROLL IN

ED BY THE BUREAU
NOV 2 1911

Mr. Russell arrived at Ellen's residence on Nov. 20, 1895. He and
 getting from days when they separated and were a long time
 Ellen's house in order to get to the station and then to the
 County, Nov. 20, and also of the 1895 election in the 11th
 Nov. 1895.

Mr. Russell from the station and P. 250, Nov. 15, 1895. He arrived
 August 11, 1895.

COMMISSIONERS
TAMM BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE,
W. E. STANLEY.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

REFER IN REPLY TO THE FOLLOWING

Choctaw R 258

ALLISON L. AYLESWORTH
SECRETARY

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

Muskogee, Indian Territory, February 10, 1904.

George Russell,

Spiro, Indian Territory,

Dear Sir:

You are hereby advised that under direction of the Secretary of the Interior of November 18, 1903, and upon a protest filed with the Commission by the attorneys for the Choctaw and Chickasaw Nations dated January 23, 1904, no further action will be taken relative to your enrollment as a citizen of the Choctaw Nation until the Commission is further instructed by the Secretary of the Interior.

Respectfully,


Commissioner in Charge.

Muskogee, Indian Territory, November 28, 1904.

George Russell,
Spiro, Indian Territory.

Dear Sir:

You are hereby notified that before any further action can be taken in the matter of your application for enrollment as a citizen by intermarriage of the Choctaw Nation, it will be necessary for you to appear before this Commission, at Muskogee, Indian Territory, and testify relative to your intermarried status on September 25, 1902.

Respectfully,

Commissioner in Charge.

Muskogee, Indian Territory, February 17, 1906.

Postmaster,

Spiro, Indian Territory.

Dear Sir:-

It appears from the records of this office that in September 1899, George Russell appeared before the Commission to the Five Civilized Tribes at South Canadian, Indian Territory, and made application for enrollment as a citizen by intermarriage of the Choctaw Nation. Frequent letters addressed to said applicant at his last known postoffice at Spiro, Indian Territory, have been returned unclaimed. If you have any knowledge relative to the whereabouts of said applicant, kindly notify this office of the same at the earliest possible date.

An envelope requiring no postage is enclosed herewith for reply.

Respectfully,

Acting Commissioner.

Enc.-JRP-1.

Do not know a thing about him.

Muskogee, Indian Territory, February 17, 1906.

John S. Merryman,

Spiro, Indian Territory.

Dear Sir:-

It appears from the records of this office that in September 1899, George Russell appeared before the Commission to the Five Civilized Tribes at South Canadian, Indian Territory, and made application for enrollment as a citizen by intermarriage of the Choctaw Nation. Frequent letters addressed to said applicant at his last known postoffice at Spiro, Indian Territory, have been returned unclaimed. If you have any knowledge relative to the whereabouts of said applicant, kindly notify this office of the same at the earliest possible date.

An envelope requiring no postage is enclosed herewith for reply.

Respectfully,

Acting Commissioner.

Enc.-JRP-2.

7-R-256

(Copy)

SPIRO, I. T., 2/11, 1906.

Commission to Five C. Tribes,

Muscogee, I. T.

Dear Sirs:

Yours of the 17 inst to hand enquiring of the whereabouts of George Russell, applicant for enrollment as an intermarriage citizen of the Choctaw Nation. I have to say I don't know anything of such a man.

Yours Very Respectfully,

(signed) JOHN S. MERRYMAN.

Department of the Interior.

General Land Office.

MUSKOGEE, IND. TER.



John E. F.

Post 3, O. T. Territory.



Choctaw 6042
Thomas Ashford

Record Trans. from Choc R-9 8-2-06.

6042

7-R-9:

Department of the Interior,
Commissioner to the Five Civilized Tribes.
Muskogee, Indian Territory, June 4, 1906.

In the matter of the application for the enrollment of
Thomas Ashford as a citizen by intermarriage of the Choctaw Nation.

On April 9, 1902, the Commission to the Five Civilized Tribes rendered its decision in the matter of the application of Thomas Ashford as a citizen by intermarriage of the Choctaw Nation, refusing said application. Thereafter, on May 16, 1902 (I.T.D. 3128-1902), said decision was approved by the Department.

On December 16, 1905, Chilion Riley of Ardmore, Indian Territory, attorney for the applicant, filed with the Department a motion to reopen and readjudicate said decision, and on May 12, 1906, the Department rescinded its action of May 16, 1902, and remanded said cause for rehearing and readjudication.

On May 19, 1906, the applicant, his attorneys of record, together with the attorneys for the Choctaw and Chickasaw Nations were notified of the action of the Department, and advised that a further hearing would be had in the matter of said application at the office of the Commissioner to the Five Civilized Tribes at Muskogee, Indian Territory, on Monday, June 4, 1906, at nine o'clock A. M.

Now, on this the fourth day of June, 1906, the following appearances were entered and proceedings had:

The applicant appears in person.
Chilion Riley, attorney at law, of Ardmore, Indian Territory, and Phillips, Horton and Phillips, of Durant, Indian Territory, appear on behalf of the applicant.
No appearance on behalf of the Choctaw and Chickasaw Nations.

Thomas Ashford, being first duly sworn, testified as follows:

Examination by the Commissioner:

- Q What is your name? A Thomas G. Ashford.
Q How old are you, Mr. Ashford? A Fifty-eight years old, this coming August.
Q What is your post office address? A Albany, I. T.
Q Do you claim rights as a citizen by intermarriage of the Choctaw Nation? A Yes sir.
Q Through whom? A Through one Virginia Airington.
Q What was she? A She was Choctaw.

- Q By blood? A By blood, yes sir.
Q Is she living? A No sir.
Q When did she die? A She died in the year 1880, September 2nd.
Q How much blood did she have? A Well, her people is all put on as full bloods.
Q Where were you married to Virginia Airington? A I was married, sir, in Polk County, Arkansas.
Q Where were you living at the time of your marriage to this woman?
A I was living in the Territory at the time, sir.
Q At what point? A At a place called Alikohi.

By Mr. Riley:

- Q What nation? A Choctaw Nation.

By the Commissioner:

- Q Where was Virginia Airington living? A She was living in the Choctaw Nation.
Q How did you happen to go to Arkansas to be married? A I went there for convenience as far as I know; I went for to make application to be married in the nation, and the waters got up till we couldn't get to her place, and the time arrived for us to be married, and we went to the State on account of the high water.
Q How far is Alikohi from the Arkansas line? A We lived about four miles; that is, she die; I lived about eighteen.
Q What is the name of your father? A James Ashford.
Q What is the name of your mother? A Prudena Ashford.
Q Both white people? A Yes sir.
Q Are either of them living? A No sir, neither one of them.
Q After you were married to Virginia Airington where did you reside?
A I resided in about fifteen or twenty minutes after I was married to her, I came back to the Territory and been there ever since.
Q How long did you live with Virginia Airington as husband and wife?
A I lived with her a little over ten years and nine months.
Q Did you live with her continuously? A Yes sir, we never was separated, and never even as much as had a cross word while we lived together.
Q After you were married, what place in the Choctaw Nation did you come back to to make your home? A I made my home in Wolf County for four years, and then I moved to Durant and stayed there one year, and moved from there to Caddo and stayed there seven years, and from there I moved back to Durant and stayed two, and from there I went to Towson County, Choctaw Nation, and stayed there eighteen, and then I have been where I am at Albany will be seven years in November.
Q Are all these places in the Choctaw Nation that you have mentioned?
A All in the Choctaw Nation, yes sir, every one of them.
Q Were you ever married before your marriage to Virginia Airington?
A No sir.
Q Was Virginia Airington ever married before you were married to her?
A No sir.
Q How old was she at the time of your marriage? A She lacked from the 12th of December to the 24th of being twenty-one years old.
Q What is the name of her father? A Her father's name was Drew Airington.
Q And her mother? A Her mother's name was Nancy.

- Q Did you have any children by her? A Yes sir, I had five.
Q Are any of these children finally enrolled as citizens of the Choctaw Nation? A Yes sir, three of them.
Q Name them please? A Clara McCullon, Della Maggs, J. D. Ashford.
Q Well, the first two are girls and have been married? A Yes sir, both been married.
Q Are those the names under which they are finally enrolled?
A Yes sir.
Q Did you secure a certificate of marriage at the time of your marriage to Virginia Airington? A Yes sir, I got it, but I got it burned in the year 1900; I had everything I had burned into ashes.
Q Have you secured a certified copy of your marriage certificate?
A No sir, I didn't never get it; I went to get it but the clerk's office was burned.
Q When was it burned? A It was destroyed sometime about the year '77 or 8.
Q Did you get a certificate from the custodian of the records of Polk County, Arkansas, relative to the burning of these records?
A No sir, I didn't.

By Mr. Riley:

The applicant asks leave to file a certificate of the proper officer of Polk County, Arkansas, showing that the records were sometime about the year '77 or '78, of that county, destroyed by fire, which we will furnish at a later date.

By the Commissioner:

- Q When did Virginia Airington die? A She died September 2nd, 1880.
Q Are these children you mentioned children of Virginia Airington?
A Yes sir.
Q Have you remarried since the death of Virginia Airington?
A Yes sir.
Q To whom? A Married a white woman, Florence Williamson.
Q When were you married to her? A I was married to her July 23, '82.
Q Still living with her? A Yes sir, still living with her.

James D. Ashford, son of the applicant, Thomas Ashford, appears upon Choctaw Filed Card No. 5700, opposite final roll No. 15066, approved by the Secretary of the Interior February 16, 1904.

By Mr. Riley:

- Q Your other two children that are not enrolled, they are dead are they, Mr. Ashford? A Yes sir, one of them died in the year 1871 and one in '73.
Q Mr. Ashford, your full name is Thomas G. Ashford is it? A Thomas Green is my full name.
Q And you are the same Ashford that appeared and made application for enrollment as Thomas Ashford, are you? A Yes sir.
Q How long had you been living in the Choctaw Nation before you and Virginia Airington were married? A I had been here ever since the 11th day of August of '65.

- Q Somewhere about four years? A Something about four years, yes sir.
- Q Who was present, if you remember, at the time you and Virginia Airington were married? A Well, there was William Airington and his wife, Bellhina Airington, and A. J. Barnett and Elizabeth Barnett; they were all married at the same time.
- Q Then you had three weddings? A Had three weddings all at the same time.
- Q All at the same time at the same place? A Yes sir.
- Q Is Mr. William Airington living? A Yes sir.
- Q Is Mr. Barnett? A Mr. Barnett is living.
- Q What relation, if any, was William Airington to your wife? A He is an own brother.
- Q He is here to-day as a witness for you? A He is here to-day as a witness.
- Q And you never lived in Arkansas where you were married after you were married? A No sir.
- Q Did you return immediately to the Choctaw Nation? A I returned within fifteen minutes after the marriage.
- Q Give me the exact date of your marriage, if you remember, Mr. Ashford? A It was December 12th in the year 1869.
- Q How long did you live with your wife after you were married? A I lived with her from the 12th of December until the 12th of December, 1880.
- Q What happened then? A Her death.
- Q Then you lived with your wife from the date of your marriage continuously up to her death? A Yes sir.
- Q And lived all this time in the Choctaw Nation? A All the time, yes sir, in the Choctaw Nation.
- Q And since her death, you have lived in the Choctaw Nation up to the present time? A Yes sir.

(Witness excused.)

William Airington, being first duly sworn, testified as follows:

Examination by Mr. Riley:

- Q What is your name, Mr. Airington? A William Airington.
- Q How old are you? A Going on sixty-one.
- Q What is your post office address? A Caddo.
- Q Indian Territory? A Yes sir.
- Q Are you a citizen by blood of either the Choctaw or Chickasaw Nations? A Citizen by Choctaw blood.
- Q Do you know Thomas G. Ashford? A Yes sir.
- Q How long have you known him, Mr. Airington? A Well, I couldn't tell you exactly how long.
- Q About how long; estimate it? A I can't say; about since '68.
- Q Did you know his first wife, Virginia Ashford? A Yes sir.
- Q What relation, if any, was she to you? A She was my own sister.
- Q Was she a citizen by blood of either the Choctaw or Chickasaw Nations? A Yes sir, she was a citizen by Choctaw blood.
- Q Was she recognized as a citizen by blood? A Yes sir.
- Q Is she living or dead, now? A She is dead.

- Q About how long has she been dead, Mr. Airington? A Well, sir, I couldn't tell you at all.
- Q Has she been dead, you think, as much as twenty-five years?
- A Well, I suppose close up to it.
- Q Are you enrolled as a citizen by blood? A Yes sir.
- Q Taken your allotments? A Yes sir.
- Q Has all the rest of her brothers and sisters that are living been enrolled? A Yes sir.
- Q How many of you are there living now? A Just two.
- Q What is the other's name? A Jack Airington.
- Q Where does he live? A Lives in Arbuckle Mountains.
- Q Chickasaw Nation? A Yes sir.
- Q Were you present, Mr. Airington, at the time your sister, Virginia, was married to Mr. Ashford? A Yes sir.
- Q Where did that marriage take place? A Took place right on the Arkansas line.
- Q Well, was it in Arkansas or Indian Territory? A Well, I stood on the Territory side and they stood on the Arkansas side.
- Q Do you know what county that was in Arkansas? A Yes sir, Polk County.
- Q Who performed the ceremony, if you remember? A Well, a man by the name of Hartwright.
- Q Do you know what position he held? A No sir, I don't.
- Q Do you know whether he is living or dead? A He is dead.
- Q Do you know whether he was a minister of the Gospel or a public officer of some kind? A Well, I don't know.
- Q Who else was present when they were married, Mr. Airington?
- A Well, there was three couple of us married at the same time.
- Q Well, who were the three couple? A Well, there was me and Jack Barnett and Tom Ashford.
- Q Are all of these three couple living now except your sister?
- A Yes sir, all except my sister.
- Q How long ago has that been, Mr. Airington? A It has been a long time; I don't know exactly how long it has been; married in '69, I think.
- Q You think it was in '69? A Yes sir.
- Q And you don't remember the date? A No sir.
- Q Where did Mr. Ashford live before his marriage? A Well his father and mother lived in Arkansas.
- Q But where was he? A Why, he was down there in the nation.
- Q Where did he live then after he married? A Why, he improved him a place up there in the nation.
- Q In the Choctaw Nation? A Yes sir.
- Q How long after his marriage before he came back to the Choctaw Nation? A I don't think he went into the state; if he did, I don't recollect it.
- Q Then your recollection is that he came immediately after his marriage to the Choctaw Nation? A Yes sir.
- Q Has he lived in the Choctaw Nation ever since? A Yes sir, lived in the Choctaw Nation ever since he married my sister.
- Q Never lived anywhere else? A No sir, I don't think he did.
- Q Did he and your sister have any children after their marriage?
- A Yes sir, she had five.
- Q Are any of them living now? A Well, I don't know; I don't think there are but two living, a girl and a boy, I think.
- Q Do you know the boy's name? A His name is Drew.

- Q Drew Ashford? A Yes sir.
Q Got any other name? A No sir, not as I know of.
Q Goes by the name of Drew? A Yes sir.
Q You don't know whether he is enrolled or not, do you?
A Yes sir, he has been enrolled.

By the Commissioner:

- Q What was Mr. Ashford doing in the Choctaw Nation before he married your sister? A Well, I don't know exactly; I wasn't right there; I was at home at work; I don't know what he was doing.
Q Was your sister ever married before she married Mr. Ashford?
A No sir.

By Mr. Riley:

- Q He was your sister's first husband was he? A Yes sir.

(Witness excused.)

Thomas Ashford, being recalled, testified as follows:

Examination by the Commissioner:

- Q What were you doing in the Choctaw Nation before you married Virginia Airington? A Well, sir, I was helping to assist in teaching a school.
Q Were you teacher? A No sir, I was assistant.
Q What place? A Place called Alikchi.
Q In a tribal school? A Yes sir.
Q Who performed the marriage ceremony joining you and Virginia Airington? A One Mr. Joseph Cartwright.
Q What was he? A Justice of the Peace.
Q Was this marriage ceremony performed in some town? A No sir, it was performed right by the side of the big road.
Q Where did Cartwright live? A Cartwright lived about six miles from the Territory line up in the State.
Q Did you go to his house to be married? A No sir, we went in the morning, me and this gentleman, and notified him where we wanted to be married at, and he met us there.
Q Did you get a license, Arkansas license? A No sir, there wasn't any license required.

By Mr. Riley:

- Q Mr. Ashford, who is Drew Ashford? A Well, he is claimed to be my son?
Q He is a son of you and Virginia Airington? A Yes sir.
Q Is he the same son that is enrolled as James D. Ashford? A Yes sir, he is James D. Ashford.
Q Is he called Drew Ashford? A Yes sir, that is his middle name.

By the Commissioner:

- Q What was Mr. Barnett's full name who was present on the occasion of your marriage? A Jackson Barnett.
Q Where does he live now? A Lives at Dibble, Chickasaw Nation.

(Witness excused.)

Lenora B. Ashton, as stenographer to the Commissioner to the Five Civilized Tribes, on oath states, that she reported the testimony in the above entitled cause on the 4th day of June, 1906, and that the above and foregoing transcript is a true and complete translation of her stenographic notes.

Lenora B. Ashton

Subscribed and sworn to before me this 5th day of June, 1906.

Edward Merritt
Notary Public.

Department of the Interior,

Commissioner of the General Land Office,
Washington, D. C.
I hereby certify that this
true and correct copy of the
my signature and seal.

Commissioner to the Five Civilized Tribes,

Caddo, Indian Territory.

In the enrollment of Thomas Ashford as an intermarried Choctaw
being sworn and examined by Com'r McKenna he testifies:

- Q What is your name? A Thomas Ashford.
- Q How old are you? A Fifty-two.
- Q You claim to be an intermarried Choctaw? A Yes sir.
- Q When were you married to a Choctaw citizen? A In the year
1862.
- Q What was her name? A Arrington.
- Q How were you married to her? A By the laws of Arkansas.
- Q Where? A In Polk County Arkansas.
- Q Was she living there then? A She was living in the Terri-
tory.
- Q Were you married to her again? A No sir, that woman died.
- Q How long did you live with her? A Ten years and nine months.
- Q Until she died? A Yes sir.
- Q Have you since married again? A Yes sir.
- Q A white woman? A Yes sir.
- Q What is her name? A Florence Williamson was her name when
I married her. She claims a Chickasaw right, the woman I married
last does.
- Q You were not married according to Choctaw law at all?
- A No sir.

Com'r McKenna: Enrollment is refused.

June 1

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UNITED STATES OF AMERICA,
STATE OF ARKANSAS,
COUNTY OF POLK.

I, W. N. Martin, County Clerk and Recorder of Polk County, State of Arkansas, do hereby certify that I am the legal custodian of the marriage records of said county; that on ^{or about} the 18 day of April, 1876, the ~~County Clerk's Office~~ ^{County Clerk's Office} ~~Court House~~, together with the marriage records prior to that date were destroyed by fire. I further certify that there is nothing now of record showing the marriage of Thomas Ashford and Virginia Airington and if they were married in 1869, or prior thereto the record must have been burned at the time of the destruction of the ~~County Clerk's Office~~ ^{County Clerk's Office} ~~Court House~~ by fire as aforesaid.

WITNESS my hand and ~~seal~~ this the 7th day of June, A. D. 1906.

W. N. Martin
Clerk and Recorder of
Polk County, Arkansas.

J. R. 2
Thomas G. Ashford.

THE INTERIOR

JUN 2

INDIAN TERRITORY,
SOUTHERN DISTRICT.

A. J. Barnett, of lawful age, being first duly sworn, says: That he is personally acquainted with Thomas G. Ashford, an applicant for enrollment as an intermarried citizen of the Choctaw Nation; that he was acquainted with his first wife Virginia during her life time; that he was present when the said Thomas G. Ashford was married to Virginia Airington; that they were married in Polk County, State of Arkansas, near the Arkansas and Indian Territory line; that said marriage ceremony was performed by a justice of the peace by the name of Cartrite and was performed December 12, 1869.

I know these facts because I was married to my wife on the same day, at the same place and by the same official. I am now a duly enrolled and approved citizen by intermarriage myself, securing my right by virtue of my marriage at the same time and place as Thomas G. Ashford.

Areabald J. J. Barnett.

Subscribed and sworn to before me this the 15 day of June, A.D. 1906.

J. M. Gordon,

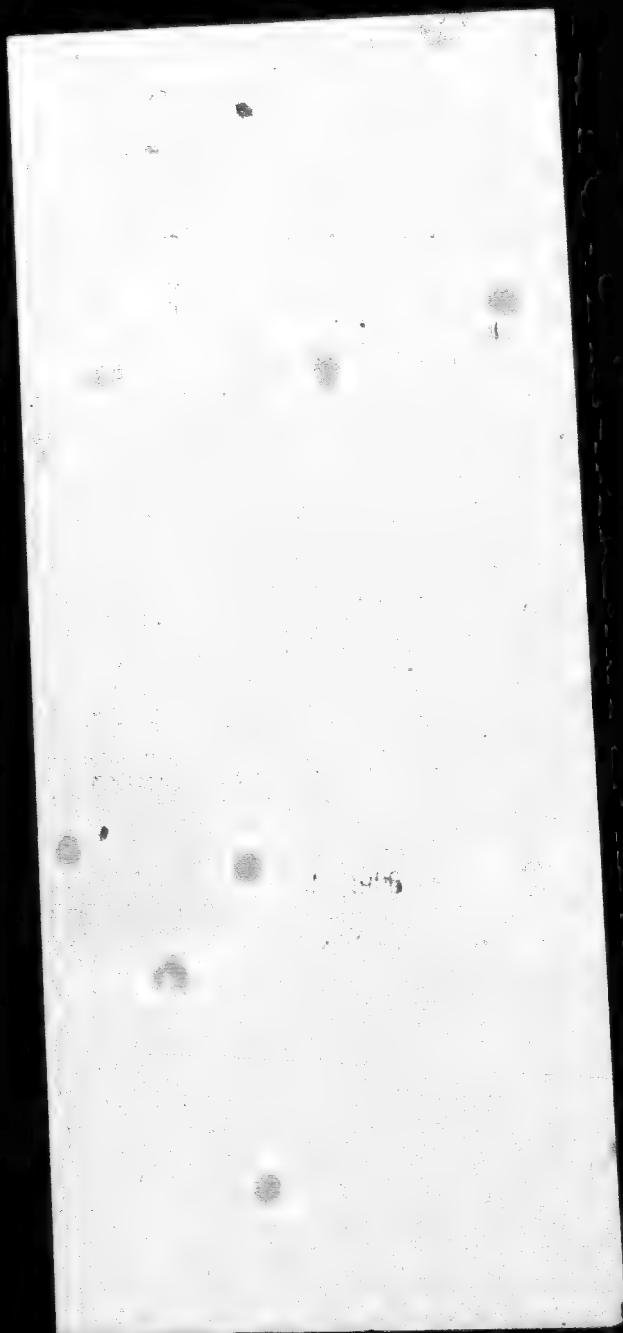
(SEAL)

Notary Public.

My term of office expires March 12 1907.

Indorsed:

Department of the Interior,
Commissioner to the Five Civilized Tribes.
Filed Jun. 22, 1906.
Tams Bixby, Commissioner.



Received of the Commissioner to the Five Civilized Tribes
one copy of the testimony of Thomas Ashford in the matter of his
application for enrollment as an intermarried citizen of the Choctaw
Nation.

Chilton Riley

Muskogee, Indian Territory,
January, 16, 1906.

FILED

DEC 1905

COMMISSION TO FIVE TRIBES.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

--:--

In the matter of the application for the enrollment of Thomas G. Ashford as an intermarried citizen of the Choctaw Nation.

To the Honorable,

The Secretary of the Interior.

Your petitioner, Thomas G. Ashford, through his attorney Chilion Riley, respectfully represents that heretofore, in August, 1899, he applied to the Commission to the Five Civilized Tribes, under the name of Thomas Ashford, for enrollment as an intermarried citizen of the Choctaw Nation; that on April 9, 1902, the Commission rendered a decision denying your petitioner enrollment as an intermarried citizen of the Choctaw Nation which said decision was, thereafter, approved by the Secretary of the Interior.

Your petitioner further represents that the Commission denied petitioner enrollment for the reason, as stated in the decision, that it did not appear that he was married to a recognized and enrolled citizen by blood of said nation in accordance with the tribal laws of said nation, and that your petitioner did not remove to and in good faith settle in the nation in which he claimed citizenship, and in fact, had never resided in the Territory.

Your petitioner states that he was married in the year 1898 to a duly recognized citizen by blood of the Choctaw Nation.

law Nation; that prior to said marriage he had lived in the Choctaw Nation for four (4) years and continued to reside in said nation until the death of his wife, all of which will appear from the affidavits of petitioner, hereto attached, and of his wife's brother, William Airington.

Your petitioner states that the Commission has held, and the Department approved such holding, that after the adoption of the treaty of 1866 and up to the year 1875, the date of the passage of the Choctaw Law requiring white men to procure license, that any lawful marriage between a white man and a Choctaw woman conferred citizenship upon the white man. This has been held in the case of Samuel J. Hickman, and numerous other cases.

Your petitioner states that he resided in the Choctaw Nation ^{4 years} immediately preceding his marriage to his Choctaw wife and has continuously resided in said nation from that time up to the present, and if he had been given an opportunity he could have shown these facts to the satisfaction of the Commission. Reference is made in support of this allegation to the affidavits above referred to, which are hereto attached.

Petitioner, therefore, respectfully prays that the judgment of the Commission to the Five Civilized Tribes, and the action of the Department thereon, be set aside and his said application for enrollment as an intermarried citizen of the Choctaw Nation be re-opened and the Commissioner be directed to re-adjudicate the same.

Respectfully submitted,

Chilion Riley
Attorney for Petitioner.

UNITED STATES OF AMERICA,
INDIAN TERRITORY,
SOUTHERN - - - - DISTRICT.

I, Fred V. Kinkade, of lawful age, being first duly sworn, on oath state that I did, on this the first day of December, 1905, transmit by registered mail, to Mansfield, McMurray & Cornish, Attorneys for the Choctaw-Chickasaw Nations, a true, full and correct copy of the above petition and the affidavits attached thereto, and that attached registry receipt is for letter in which same was enclosed.

Fred V. Kinkade

Subscribed and sworn to before me this the first day of December, A. D. 1905.

(signed) Maud Cotner
Notary Public.

Seal

UNITED STATES OF AMERICA,

INDIAN TERRITORY, ss:

CENTRAL - - - - DISTRICT.

Thomas W. Ashford, being duly sworn, on his oath states; that he is the identical person who at Caddo, Indian Territory, in August, 1899, under the name of Thomas Ashford, applied to the Commission to the Five Civilized Tribes for enrollment as an intermarried citizen of the Choctaw Nation, and is the identical person, who was by said Commission denied, under the name of Thomas Ashford, enrollment as an intermarried citizen of the Choctaw Nation on April 9, 1902.

Affiant states that he has continuously resided in the Choctaw Nation, Indian Territory, from the year 1865 up to the present time and that he had resided in said Choctaw Nation four years, continuously, prior to his marriage to his Indian wife in 1869, and that he and his said wife were both living in the same neighborhood in said nation, near the Choctaw line, and that when they married they went across the line into Polk County, Arkansas, and were married; that said marriage was performed under the laws of the State of Arkansas, and as a matter of convenience, as affiant and his wife would have been compelled to travel forty (40) miles to the nearest Indian Official who could perform the marriage ceremony and to avoid this affiant and his wife went across the line into Arkansas and was married.

Affiant further states that neither he or his wife, after their marriage ever lived a day in the State of Arkansas, but that they returned immediately to the Choctaw Nation, where they lived together as man and wife for ten years, untill the date of her death; since then affiant has lived continuously in said nation.

Affiant also states that he is now and has always been ready and willing to testify to these facts, but that the Commission denied his application for enrollment prior to the passage of the Supplemental Agreement, and its ratification, and affiant has never been permitted to testify as to his rights to enrollment since the passage and adoption of said agreement.

Thomas L. Coffey

Subscribed and sworn to before me this 24th day of November, A. D. 1905.

R. B. Baker
Notary Public.

My commission expires on

Nov 10th, 1907.

UNITED STATES OF AMERICA,
INDIAN TERRITORY, ss:
CENTRAL - - - - DISTRICT.

William Airington, on his oath, being duly sworn, states that he is personally acquainted with Thomas G. Ashford, and that said Ashford has resided in the Choctaw Nation continuously since the year 1865.

Affiant further states that Thomas G. Ashford was married to a sister of affiant in the year 1869; that Ashford and affiant's sister lived together continuously in the Choctaw Nation as man and wife from the time of their marriage up until the death of my sister.

Affiant also states that said Ashford was living in the Choctaw Nation at the time of his marriage and had lived in said nation four years immediately proceeding said marriage and that Ashford and his wife, sister to affiant, never lived a day after their marriage outside of the Choctaw Nation.

(signed) William Airington

Subscribed and sworn to before me this the 24th day of November, A. D. 1905.

J. R. Sappoles
Notary Public.

My commission expires

Nov. 10th 1907

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7/27/06 10/16/06 11/20/06	200

Dec. dated 4/6/02 7/18/06	300
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DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

State of Arkansas
County of Polk,

I, W. N. Martin, County Clerk within and for the County and State aforesaid, do hereby certify, that on the night of the 18th of April 1876, the Clerk's ^{Office & Court House} of Polk County, Ark., was destroyed by fire, and that by reason thereof, all the records thereof including the Records of Marriage Certificates, then existing in said office were destroyed, which fact appears of Record in, County Court Record, book see below at pages 7 and 8 the same being a record of the proceedings of the County Court of Polk County, Arkansas, at the July, term 1876. under date of July 18th 1876.

In testimony whereof I have hereunto set my hand and affixed the seal of said Court, on this 28th day of June, 1906.

W. N. Martin
County Clerk.

(Seal)

The record Book referred to above has no letter or number.

W. N. Martin,
Clerk.

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Thomas Ashford for the enrollment of himself as a citizen by intermarriage of the Choctaw Nation.

---: D E C I S I O N :---

The record in this case will show that the applicant, Thomas Ashford, appeared before the Commission at Caddo, Indian Territory, at its session beginning on August 21, 1899, and ending on August 25, 1899, and then and there made personal application for the enrollment of himself as a citizen by intermarriage of the Choctaw Nation.

It appears from the evidence submitted that the applicant is a white man, fifty-one years of age, and was married in the year 1869, in Polk County, Arkansas, under the laws of Arkansas, to a Choctaw woman, and so far as the evidence shows applicant has never resided in the Indian Territory.

The first act of the Choctaw Council relating to the intermarriage of white persons with Choctaw and Chickasaw women, was

(2).

passed in October, 1840, and so much of said act as is applicable to this case is as follows:

"Section 4. Be it enacted by the General Council of the Choctaw Nation assembled: That no white man shall be allowed to marry in this Nation, unless he has been a citizen (evidently meaning a resident) of this Nation for two years.

And be it further enacted: That he shall be required to procure a license from some judge, or the district clerk, and be lawfully married by a minister of the Gospel, or some other authorized person, before he shall be entitled and admitted to the privileges of citizenship."

It further appears from the evidence that the applicant lived with his Choctaw wife for something over ten years, and until she died. Since her death applicant has married a woman who claims to be a Chickasaw citizen, and the evidence further shows that the applicant was not married according to any law of the Choctaw Nation.

The National Council of the Choctaw Nation, by an act passed November 9, 1875, provides as follows:

"Be it enacted by the General Council of the Choctaw Nation assembled: Any white man or citizen of the United States, or of any foreign government desiring to marry a Choctaw woman citizen of the Choctaw Nation, shall be and is hereby required to obtain a license for the same from one of the circuit clerks or judges of the court of record and make an oath or satisfactory showing to such clerk or judge, that he has not a surviving wife from whom he has not been lawfully divorced, and unless such information be freely furnished to the satisfaction of the clerk or judge, no license shall be issued, and every white man or person applying for license as provided herein, shall, before obtaining the same, be required to present to the said clerk or judge, a certificate of good moral character, signed by at least ten respectable Choctaw citizens by blood, who shall have been acquainted with him at least twelve months immediately preceding the signing of such certificate, and before any license as herein provided shall be issued, the person

(3).

applying shall be and is hereby required to pay to the clerk or judge the sum of twenty-five dollars, and be also required to take the following oath: "I do solemnly swear that I will honor, defend and submit to the constitution and laws of the Choctaw Nation, and will neither claim nor seek from the United States Government or from the judicial tribunals thereof, any protection privileges or redress incompatible with the same as guaranteed to the Choctaw Nation by the treaty stipulations entered into between them, so help me God."

The act of Congress of June 26, 1898, (30 Stats., 493) among other things, provides as follows:

"No person shall be enrolled who has not heretofore removed to and in good faith settled in the Nation in which he claims citizenship."

It does not appear from the evidence offered in support of this application, and an examination of the tribal rolls of the Choctaw Nation in the possession of the Commission, that the applicant has ever been enrolled as a citizen of the Choctaw Nation, nor does his name appear upon any of the tribal rolls of the Choctaw Nation in the possession of the Commission, nor does it appear that he has ever been admitted to Choctaw citizenship by the legally constituted authorities of the said Nation.

It further appears from an examination of the records in the possession of the Commission to the Five Civilized Tribes, that the applicant has never been admitted to citizenship in the Choctaw Nation by the Commission to the Five Civilized Tribes, or by a decree of the United States Court in Indian Territory, in accordance with the provisions of the act of Congress of June 10, 1896. (29 Stats., 321).

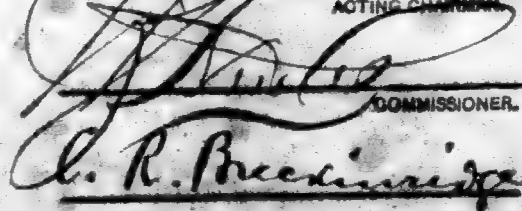
It appears further that Thomas Ashford, who makes this application as an intermarried citizen of the Choctaw Nation, has never been married in accordance with the tribal laws of the Choctaw

(4).

Nation to a recognized and enrolled citizen by blood of that Nation. It appears also that the applicant had not prior to his application removed to and in good faith settled in the Nation in which he claims citizenship and in fact had never resided in the Territory, as required by the provisions of the act of Congress of June 28, 1898 (30 Stats., 495), above quoted.

It is, therefore, the opinion of this Commission that Thomas Ashford is not lawfully entitled to be enrolled as a member of the Choctaw tribe of Indians in the Indian Territory, and that his application should be refused, and it is so ordered.

THE COMMISSION TO THE FIVE CIVILIZED TRIBES.


ACTING CHAIRMAN

COMMISSIONER.
C. R. Breckinridge
Commissioners.

Muskogee, Indian Territory.

APR -9 1902

7-2-0.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of
Thomas Ashford as a citizen by intermarriage of the Choctaw Nation.

DECISION.

It appears from the census card record in this case that
in 1902 a petition was made to the Commission to the Five Civilized
Tribes for the enrollment of Thomas Ashford as a citizen by intermarriage
of the Choctaw Nation.

The matter, on April 9, 1902, said Commission rendered its
decision thereon, denying said application, and on May 15, 1902 (I.
T.D. 1740-1902), said decision was approved by the Department.

On December 1, 1902, there was filed by Chilton Wiley, at-
torney for the applicant, a petition praying that the decision of the
Commission to the Five Civilized Tribes of April 9, 1902, be set
aside, and that the application for the enrollment of the applicant
herein as a citizen by intermarriage of the Choctaw Nation be reopened,
and that the Commission be directed to rejudicate said case.

For the purpose of pursuing such action, the Department
on March 21, 1903 (I.T.D. 17410-1903), requested to be furnished with
a certified copy of the testimony taken in the matter of the applica-
tion for the enrollment of Samuel Wick as a citizen by intermarriage
of the Choctaw Nation, to enter with the decision therein, and on
April 7, 1903, the original record and decision therein were forward-
ed to the Department.

The Department on May 12, 1903 (I.T.D. 17410-1903), rescind-
ed its action of May 15, 1902, affirming the decision of the Commis-
sion to the Five Civilized Tribes of April 9, 1902 denying the appli-
cation for the enrollment of Thomas Ashford as a citizen by intermarriage
of the Choctaw Nation, and resented said case with instructions
that the same be rejudicated after a full hearing had been had upon
the merits.

On May 19, 1903, the applicant, his attorneys of record, and
the attorneys for the Choctaw and Chickasaw Nations were advised of
the action of the Department, and notified that the Commissioner to
the Five Civilized Tribes would at his office at Muskogee, Indian Ter-
ritory, on Monday, June 1, 1903, at nine o'clock A. M., hear the tes-
timony of Mr. Ashford and such witnesses as he may desire to present
in reference to his right to enrollment as a citizen by intermarriage
of the Choctaw Nation, and that the attorneys for the Choctaw and
Chickasaw Nations would also be permitted to introduce such evidence
and testimony as they might desire.

On June 1, 1903, additional proceedings were had in the mat-
ter of said application in accordance with the notice above mention-
ed.

It appears from the record herein that on December 12, 1869, the applicant, Thomas Ashford, was lawfully married to Virginia Airington, a recognized citizen by blood of the Choctaw Nation, and whose son by said marriage, James D. Ashford, appears as number 15066 upon a list prepared by the Commission to the Five Civilized Tribes under the provisions of the Act of Congress approved July 1, 1902 (32 Stats., 641), of persons entitled to enrollment as citizens by blood of the Choctaw Nation, and approved by the Secretary of the Interior February 16, 1903; that at the time of said marriage the applicant and his wife, Virginia Airington, were residents in good faith of the Choctaw Nation; that they lived together continuously as husband and wife in said nation until the death of said Virginia Airington in 1880; and that said applicant has resided continuously in the Choctaw Nation from the date of his said marriage up to and including September 25, 1902.

I am, therefore, of the opinion that the decision of the Commission to the Five Civilized Tribes of April 9, 1902, should be rescinded, and that the applicant, Thomas Ashford, should be enrolled as a citizen by intermarriage of the Choctaw Nation, under the provisions of the Act of Congress approved June 28, 1898 (30 Stats., 496), and it is so ordered.

James D. Ashby
Commissioner.

Muskogee, Indian Territory,

COPY

DEPARTMENT OF THE INTERIOR
WASHINGTON

GR

LLB

I.T.D. 3128-1902.
17440-1905.

May 12, 1906.

URS

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

In view of your decision of October 2, 1905, granting the application of Samuel Hickman (7-D-953), for his enrollment as an intermarried citizen of the Choctaw Nation, the record whereof was transmitted with your letter of March 7, 1906, the motion for a reopening and readjudication of the application of Thomas Ashford, for his enrollment as an intermarried citizen of the Choctaw Nation, is hereby granted. Departmental decision of May 16, 1902 (I.T.D. 3128), affirming the decision of the Commission of April 9, 1902, denying the application of Thomas Ashford is hereby vacated.

The cases of Thomas Ashford and Samuel Hickman appear analogous. Samuel Hickman, whose name appears opposite No. 1514 upon the approved rolls of the Choctaw Nation, was married in 1869, in Sebastian County, Arkansas, to Margaret Hickman, a recognized and enrolled citizen of the Choctaw Nation, and resided with her continuously in said nation since his marriage. Applicant's name appeared (whether properly or not was not determined) upon the 1885 and 1896 census rolls of Sugar Leaf County, Choctaw Nation, and permits were issued for renters under him.

You admitted Samuel Hickman, while Thomas Ashford, who was also married in 1869, in Polk County, Arkansas, to a Choctaw woman named Arrington, with whom he resided continuously in said nation since his marriage until her death, was denied by the Commission. The Commission found that he "had never resided in the Territory," but there is no evidence in the record upon which to base such a finding, and the evidence submitted upon motion for a reopening shows that immediately after marriage he returned to the Choctaw Nation, where he resided with his wife until her death. His name does not appear upon the tribal rolls of the Choctaw Nation, but if his marriage met the requirements of section 28 of the treaty of 1866, it would be equivalent to his tribal enrollment.

You are requested to readjudicate the case of Thomas Ashford after full hearing had upon the merits, at which applicant should be heard.

The record in both cases are returned through the Indian Office, to be considered together.

Respectfully,

(Signed) Jess E. Wilson,

Assistant Secretary.

COPY.

7-R-9

Muskogee, Indian Territory, May 16, 1905.

Phillips & Phillips,

Attorneys at Law.

Durant, Indian Territory.

Gentlemen:

Receipt is hereby acknowledged of your letter of May 1, 1905, asking relative to the introduction of additional testimony in support of the application of Thomas G. Ashford for enrollment as an intermarried citizen of the Choctaw nation.

In reply to your letter you are advised that on April 9, 1902, the Commission to the Five Civilized Tribes rendered its decision refusing the application of Thomas Ashford for enrollment as an intermarried citizen of the Choctaw nation and on the same date the record in the case was forwarded the Secretary of the Interior.

On May 16, 1902, the Secretary of the Interior affirmed the action of the Commission and this case is therefore considered closed.

Respectfully,

SIGNED *Tams Bixby.*

Chairman.

COPY.

7-R-9

Muskogee, Indian Territory, August 9, 1905.

Phillips & Phillips,

Attorneys at Law.

Durant, Indian Territory.

Gentlemen:

Receipt is hereby acknowledged of your letter of July 17, 1905, addressed to the Secretary of the Interior which has been by him referred to this office for consideration and appropriate action. Therein you ask permission to introduce testimony in the matter of the application of Thomas Ashford for enrollment as an intermarried citizen of the Choctaw Nation.

In reply to your letter you are advised that on April 9, 1902, the Commission to the Five Civilized Tribes rendered its decision refusing the application of Thomas Ashford for enrollment as an intermarried citizen of the Choctaw Nation and on May 16, 1902, this decision was affirmed by the Department. This case is therefore considered closed.

Respectfully,

SIGNED *Wm. C. Deall.*

Acting Commissioner.

COPY.

Muskogee, Indian Territory, December 5, 1905.

Chilion Riley,
Attorney at Law,
Ardmore, Indian Territory.

Dear Sir:

Receipt is hereby acknowledged of your letter of the 1st instant, transmitting the original and one carbon copy of a petition on behalf of Thomas G. Ashford, an applicant for enrollment as a citizen by intermarriage of the Choctaw Nation.

You are advised that the original of said petition has this day been forwarded to the Secretary of the Interior, the copy thereof being retained for the records of this office.

Respectfully,

SIGNED *Wm. C. Beall.*

Acting Commissioner.

COPY.

Muskogee, Indian Territory, December 5, 1905.

The Honorable,
The Secretary of the Interior.

Sir:

I have the honor to transmit herewith petition of Chilion Riley, attorney at law, of Ardmore, Indian Territory, on behalf of Thomas G. Ashford, praying that the judgment of the Commission to the Five Civilized Tribes and the action of the Department thereon refusing the application of Thomas Ashford for enrollment as a citizen by intermarriage of the Choctaw Nation be set aside and his application for enrollment as an intermarried citizen of the Choctaw Nation be reopened and the Commissioner directed to re-adjudicate the same.

I have the honor to report in reference to this petition that the application of Thomas Ashford for enrollment as a citizen of the Choctaw Nation was refused by a decision of the Commission to the Five Civilized Tribes of April 9, 1902, which was affirmed by the Department May 16, 1902 (I T D 3128-1902).

Respectfully,

SIGNED *Wm. O. Seal.*

Through the Commissioner
of Indian Affairs.

Acting Commissioner.

MM 8/7

7-R-9

COPY.

Muskogee, Indian Territory, January 16, 1906.

Chillion Riley,

Ardmore, Indian Territory.

Dear Sir:

Receipt is hereby acknowledged of your letter of January 5, 1906, in which you request a copy of the testimony taken in the matter of the application for the enrollment of Thomas G. Ashford as an intermarried citizen of the Choctaw Nation.

In compliance with your request there is inclosed herewith copy of the testimony of Thomas Ashford taken at Caddo, Indian Territory, in the matter of his application for enrollment as an intermarried citizen of the Choctaw Nation, together with receipt therefor which please sign and return to this office.

Respectfully,

SIGNED

Tams Bixby.

Commissioner.

EB 1-16.

(COPY)

G.R. LLB

D.C. 11755-1906.
I.T.D. 17440-1905.
L.R.S.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

March 21, 1906.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

For the purpose of passing upon a motion for a rehearing in the matter of the application of Thomas G. Ashford for enrollment as an intermarried citizen of the Choctaw Nation, you are requested to transmit to the Department a certified copy of the testimony taken, and your decision thereunder, in re enrollment of Samuel Hickman, whose name appears opposite No. 1514 upon the roll of Choctaw citizens by intermarriage, approved November 27, 1905.

Respectfully,

Through the Commissioner
of Indian Affairs.

(Signed) Thos. Ryan
First Assistant Secretary.

G.R.

DEPARTMENT OF THE INTERIOR, LLB
WASHINGTON.

D.C. 18898
I.T.D. 3128-1902.
17440-1905.

May 12, 1906.

LRS

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

In view of your decision of October 2, 1905, granting the application of Samuel Hickman (7-D-953), for his enrollment as an intermarried citizen of the Choctaw Nation, the record whereof was transmitted with your letter of March 7, 1906, the motion for a reopening and readjudication of the application of Thomas Ashford, for his enrollment as an intermarried citizen of the Choctaw Nation, is hereby granted. Departmental decision of May 16, 1902 (I.T.D. 3128), affirming the decision of the Commission of April 9, 1902, denying the application of Thomas Ashford is hereby vacated.

The cases of Thomas Ashford and Samuel Hickman appear analogous. Samuel Hickman, whose name appears opposite No. 1514 upon the approved rolls of the Choctaw Nation, was married in 1869, in Sebastian County, Arkansas, to Margaret Hickman, a recognized and enrolled citizen of the Choctaw Nation, and resided with her continuously in said nation since his marriage. Applicant's name

(2)

appeared (whether properly or not was not determined) upon the 1885 and 1896 census rolls of Sugar Loaf County, Choctaw Nation, and permits were issued for renters under him.

You admitted Samuel Hickman, while Thomas Ashford, who was also married in 1869, in Polk County, Arkansas, to a Choctaw woman named Arrington, with whom he resided continuously in said nation since his marriage until her death, was denied by the Commission. The Commission found that he "had never resided in the Territory", but there is no evidence in the record upon which to base such a finding, and the evidence submitted upon motion for a reopening shows that immediately after marriage he returned to the Choctaw Nation, where he resided with his wife until her death. His name does not appear upon the tribal rolls of the Choctaw Nation, but if his marriage met the requirements of section 28 of the treaty of 1866, it would be equivalent to his tribal enrollment.

You are requested to readjudicate the case of Thomas Ashford after full hearing had upon the merits, at which applicant should be heard.

The record in both cases are returned through the Indian Office, to be considered together.

Respectfully,

Jesse R. Wilson,

Assistant Secretary.

COPY.

Muskogee, Indian Territory, May 19, 1906.

Thomas G. Ashford,
Albany, Indian Territory.

Dear Sir:

This office is in receipt of Departmental letter of May 12, 1906 (I.T.D. 3128-1902, 17440-1905), in reference to your application for enrollment as a citizen by intermarriage of the Choctaw Nation.

The Department in its letter of May 12, 1906, vacates and rescinds its action of May 16, 1902, affirming the decision of the Commission to the Five Civilized Tribes of April 9, 1902, refusing your application and directs that the case be readjudicated after a full hearing had upon the merits, at which the applicant should be heard.

You are accordingly advised that the Commissioner to the Five Civilized Tribes will, at his office at Muskogee, Indian Territory, on Monday, June 4, 1906, at nine o'clock A. M., hear your testimony and receive such other evidence as you may desire to submit in reference to your application for enrollment as a citizen by intermarriage of the Choctaw Nation.

Notice of this hearing has been furnished Phillips & Phillips, Durant, Indian Territory, and Chilion Riley, Ardmore, Indian Territory, who appear as your attorneys of record, and

(2)

Mansfield, McMurray & Cornish, the attorneys for the Choctaw and Chickasaw Nations.

Respectfully,

SIGNED *Wm. C. Boall.*

Acting Commissioner.

COPY.

Muskegee, Indian Territory, May 19, 1906.

Phillips & Phillips,
Attorneys at Law,
Durant, Indian Territory.

Gentlemen:

There is enclosed herewith for your information, copy of Departmental letter of May 12, 1906 (I.T.D. 3128-1902, 17440-1905), in reference to the application of Thomas Ashford for enrollment as a citizen by intermarriage of the Choctaw Nation.

The Department rescinds and vacates its action of May 16, 1902, affirming the decision of the Commission to the Five Civilized Tribes of April 9, 1902, denying the application of Thomas Ashford and directs that the case be readjudicated after a full hearing had upon the merits, at which the applicant should be heard.

You are accordingly advised that the Commissioner to the Five Civilized Tribes will, at his office at Muskegee, Indian Territory, on Monday, June 4, 1906, at nine o'clock A. M., hear the testimony of Mr. Ashford and such witnesses as he may desire to present, in reference to his right to enrollment as a citizen by intermarriage of the Choctaw Nation.

(2)

At said hearing documentary evidence will also be received for consideration and the attorneys for the Choctaw and Chickasaw Nations will be permitted to introduce such evidence and testimony as they may desire.

Respectfully,

SIGNED *Wm. C. Deall.*

Acting Commissioner.

OP 19-1

COPY.

Muskogee, Indian Territory, May 19, 1906.

Mansfield, McMurray & Cornish,

Attorneys for the Choctaw and Chickasaw Nations,

South McAlester, Indian Territory.

Gentlemen:

There is enclosed herewith for your information, copy of Departmental letter of May 12, 1906 (I.T.D. 3128-1902, 17440-1906), in reference to the application of Thomas Ashford for enrollment as a citizen by intermarriage of the Choctaw Nation.

The Department rescinds and vacates its action of May 16, 1902, affirming the decision of the Commission to the Five Civilized Tribes of April 9, 1902, denying the application of Thomas Ashford and directs that the case be readjudicated after a full hearing had upon the merits, at which applicant should be heard.

You are accordingly advised that the Commissioner to the Five Civilized Tribes will, at his office at Muskogee, Indian Territory, on Monday, June 4, 1906, at nine o'clock A. M., hear the testimony of Mr. Ashford and such witnesses as he may desire to present, in reference to his right to enrollment as a citizen by intermarriage of the Choctaw Nation.

(2)

At said hearing documentary evidence will also be received for consideration and the attorneys for the Choctaw and Chickasaw Nations will be permitted to introduce such evidence and testimony as they may desire.

Respectfully,

SIGNED *Wm. C. Deall.*

Acting Commissioner

OP 19-5

7-R-9.

Muskogee, Indian Territory, June 5, 1906.

Chillion Riley,
Attorney at Law,
Ardmore, Indian Territory.

Dear Sir:

In accordance with your verbal request, there is enclosed
you herewith a copy of the testimony taken at Muskogee, Indian Ter-
ritory, on June 4, 1906, in the matter of the application for the
enrollment of Thomas Ashford as a citizen by intermarriage of the
Choctaw Nation.

Respectfully,

Commissioner.

LBA 8/1.

7-R-9

Muskogee, Indian Territory, June 18, 1906.

Chilion Riley,
Attorney at Law,
Ardmore, Indian Territory.

Dear Sir:

Receipt is hereby acknowledged of your letter of June 9, 1906, inclosing certificate of the County Clerk of Polk County, Arkansas, showing the destruction of the marriage records of that county by fire in April 1876, which you offer in support of the application for the enrollment of Thomas Ashford as an intermarried citizen of the Choctaw Nation and the same has been filed with the record in this case.

Respectfully,

Commissioner.

7-R-9

Muskogee, Indian Territory, June 29, 1906.

Chilion Riley,

Ardmore, Indian Territory.

Dear Sir:

Receipt is hereby acknowledged of your letter of June 18, 1906, inclosing affidavit of J. J. Barnett relative to the marriage of Thomas G. Ashford and Virginia Airington which you desire to have forwarded in the matter of the application of Thomas G. Ashford for enrollment as an intermarried citizen of the Choctaw Nation.

Respectfully,

Commissioner.

7-R-9

Muskogee, Indian Territory, July 14, 1906.

L. D. Norton,

Durant, Indian Territory.

Dear Sir:-

Receipt is hereby acknowledged of your letter of June 30, 1906, enclosing certificate of W. N. Martin, County Clerk, to the destruction of the records of Polk County, Arkansas, by fire April 18, 1876, which you offer in support of the application of Thomas Ashford as an intermarried citizen of the Choctaw Nation, and the same has been filed with the record in this case.

Respectfully,

Commissioner.

7-R-9

Muskogee, Indian Territory, July 18, 1906.

Thomas Ashford,

Albany, Indian Territory.

Dear Sir:

Inclosed herewith you will find a copy of the decision of the Commissioner to the Five Civilized Tribes, rendered July 18, 1906, granting your application for enrollment as a citizen by intermarriage of the Choctaw Nation.

The attorneys for the Choctaw and Chickasaw Nations have been furnished a copy of this decision and have been allowed fifteen days from the date of this notice within which to file protest against your enrollment. If at the expiration of that time no protest has been filed, the name of Thomas Ashford will be placed upon the final roll of citizens by intermarriage of the Choctaw Nation to be submitted to the Secretary of the Interior for his approval.

Respectfully,

Commissioner.

Registered.

Incl. 7-R-9.

7-R-9

Muskogee, Indian Territory, July 18, 1906.

Chilion Riley,

Ardmore, Indian Territory.

Dear Sir:

You are hereby notified that the Commissioner to the Five Civilized Tribes, on July 18, 1906, rendered his decision granting the application for the enrollment of Thomas Ashford as a citizen by intermarriage of the Choctaw Nation.

The attorneys for the Choctaw and Chickasaw Nations have been furnished a copy of the decision and have been allowed fifteen days from the date of this notice within which to file protest against his enrollment. If at the expiration of that time no protest has been filed, the name of Thomas Ashford will be placed upon the final roll of citizens by intermarriage of the Choctaw Nation to be submitted to the Secretary of the Interior for his approval.

Respectfully,

Commissioner.

Registered.

Muskogee, Indian Territory, July 18, 1906.

Horton & Phillips,
Attorneys at Law,
Durant, Indian Territory.

Gentlemen:

You are hereby notified that the Commissioner to the Five Civilized Tribes, on July 18, 1906, rendered his decision granting the application for the enrollment of Thomas Ashford as a citizen by intermarriage of the Choctaw Nation.

The attorneys for the Choctaw and Chickasaw Nations have been furnished a copy of the decision and have been allowed fifteen days from the date of this notice within which to file protest against his enrollment. If at the expiration of that time no protest has been filed, the name of Thomas Ashford will be placed upon the final roll of citizens by intermarriage of the Choctaw Nation to be submitted to the Secretary of the Interior for his approval.

Respectfully,

Commissioner.

Registered.

7-R-9.

Muskogee, Indian Territory, July 18, 1906.

Mansfield, McLurray & Cornish,

Attorneys for Choctaw and Chickasaw Nations,
South McAlester, Indian Territory.

Gentlemen:

Inclosed herewith you will find a copy of the decision of the Commissioner to the Five Civilized Tribes, rendered July 18, 1906, granting the application for the enrollment of Thomas Ashford as a citizen by intermarriage of the Choctaw Nation.

You are hereby advised that you will be allowed fifteen days from the date of this notice within which to file protest against his enrollment. If at the expiration of that time no protest has been filed, the name of Thomas Ashford will be placed upon the final roll of citizens by intermarriage of the Choctaw Nation to be submitted to the Secretary of the Interior for his approval.

Respectfully,

Commissioner.

Registered.

Incl. 7-R-9.

Muskogee, Indian Territory, July 18, 1906.

The Honorable,

The Secretary of the Interior.

Sir:

On April 9, 1902, the Commission to the Five Civilized Tribes rendered a decision denying the application for the enrollment of Thomas Ashford as a citizen by intermarriage of the Choctaw Nation, and on May 16, 1902 (I T D 3128-1902), said decision was approved by the Department.

On May 12, 1906, (I T D 17440-1906) the Department rescinded its action of May 16, 1902, affirming the decision of the Commission to the Five Civilized Tribes denying the applicant as a citizen by intermarriage of the Choctaw Nation, and remanded the case for rehearing and readjudication.

I now have the honor to transmit herewith my decision of July 18, 1906, rescinding the decision of the Commission to the Five Civilized Tribes of April 9, 1902, denying the application for the enrollment of Thomas Ashford as a citizen by intermarriage of the Choctaw Nation, and granting his enrollment.

The attorneys for the Choctaw and Chickasaw Nations have been allowed fifteen days from this date within which to protest to his enrollment, and if at the expiration of that time no protest has

Secretary 2.

filed, the name of Thomas Ashford will be placed upon a schedule of citizens by intermarriage of the Choctaw Nation to be forwarded to the Secretary of the Interior for his approval.

Respectfully,

Lorne Bixby

Commissioner.

2 inclosures. 7-R-9

Through the
Commissioner of Indian Affairs.

7-R-2

Muskogee, Indian Territory, July 27, 1906.

L. D. Horton,

Attorney at Law,

Durant, Indian Territory.

Dear Sir:-

Receipt is hereby acknowledged of your letter of July 19, 1906, in which you ask if the name of Thomas Ashford has been placed upon the rolls to be forwarded for approval.

In reply you are advised that the matter of the application of Thomas Ashford for enrollment as an intermarried citizen of the Choctaw Nation is now pending before the Department, and you will be notified when this office is advised of the action thereon by the Secretary of the Interior.

Respectfully,

Commissioner.

Cheotaw R 9.

Muskogee, Indian Territory, October 10, 1906.

Phillips, Horton & Phillips,
Attorneys at Law,
Durant, Indian Territory,

Gentlemen:

Receipt is hereby acknowledged of your letter of October 3, asking the status of the application of Thomas Ashford for enrollment as an intermarried citizen of the Cheotaw Nation.

In reply you are advised that the name of Thomas Ashford will be placed upon the next schedule of citizens by intermarriage of the Cheotaw Nation to be prepared for forwarding to the Secretary of the Interior and you will be notified when his enrollment has been approved by the Department.

Respectfully,

Commissioner.

(C O P Y)

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

Land
62147-1906.

November 20, 1906.

The Honorable,
The Secretary of the Interior.

Sir:

I have the honor to invite your attention to the enclosed letter of July 18, 1906, from Tams Bixby, Commissioner to the Five Civilized Tribes, who refers to the fact that on April 9, 1902, the Commissioner to the Five Civilized Tribes rendered a decision denying the application for the enrollment of Thomas Ashford as a citizen by intermarriage of the Choctaw Nation, and on May 16, 1902 (I.T.D. 3128-1902), the decision was approved by the Department.

Mr. Bixby says that on May 12, 1906 (ITD 17440-1905), the Department rescinded its action of May 16, 1902, affirming the decision of the Commission denying the application as a citizen by intermarriage of the Choctaw Nation and remanded the case for rehearing and readjudication.

The Commissioner now transmits his decision of July 18, 1906, rescinding the decision of the Commission of April 9, 1902, denying the application for the enrollment of Thomas Ashford and granting his enrollment.

He reports that the attorneys for the Choctaw and Chickasaw Nations were allowed 15 days from the date of his

letter within which to protest the enrollment of Ashford, and notified if at the expiration of that time no protest was filed the name of Thomas Ashford would be placed on the schedule of citizens by intermarriage of the Choctaw Nation to be forwarded to the Department for approval.

The Commissioner on the re-examination and readjudication of the case found from the record that on December 12, 1869, Thomas Ashford was legally married to Virginia Airington, a recognized citizen by blood of the Choctaw Nation, and whose son by that marriage, James D. Ashford, appears as No. 15066 on a list prepared by the Commission to the Five Civilized Tribes under the provisions of the act of Congress approved July 1, 1902 (32 Stat.L., 641), of persons entitled to enrollment as citizens by blood of the Choctaw Nation, and approved by the Department on February 16, 1903; that at the time of the marriage, the applicant and his wife, Virginia Ashford, were residents in good faith of the Choctaw Nation; that they lived together continuously as husband and wife in that nation until the death of Virginia Ashford in 1880, and that the applicant has resided continuously in the Choctaw Nation from the date of his marriage up to and including September 25, 1902. The Commissioner was therefore of opinion that the decision of the Commission to the Five Civilized Tribes, of April 9, 1902, should be rescinded and that the applicant, Thomas Ashford should be enrolled as a citizen by intermarriage of the Choctaw Nation, under the provisions of the act of Congress, approved June 28,

1898 (30 Stat. L., 495), and it was so ordered.

No protest by the attorneys for the Choctaw and Chickasaw Nations has ever been received in this Office concerning the enrollment of Thomas Ashford. I recommend that the action of the Commissioner in this case be approved.

Very respectfully,

C. F. Larrabee,

Acting Commissioner.

EBH)Y.

Muskogee, Indian Territory, April 7, 1906.

The Honorable,

The Secretary of the Interior.

Sir:

Receipt is hereby acknowledged of Departmental letter of March 21, 1906, requesting that a certified copy of the testimony taken and decision thereunder in re the enrollment of Samuel Hickman, whose name appears opposite No. 1514 upon the roll of citizens by intermarriage of the Choctaw Nation approved November 27, 1905 be forwarded for use in passing upon a motion for rehearing in the matter of the application of Thomas G. Ashford for enrollment as an intermarried citizen of the Choctaw Nation.

I have therefore the honor to transmit herewith, in accordance with Departmental request, the original record in the matter of the application of Samuel Hickman for enrollment as an intermarried citizen of the Choctaw Nation, together with all the evidence introduced therein and copy of the decision of the Commissioner to the Five Civilized Tribes of October 2, 1905, granting said application.

Respectfully,

Choctaw R 9
Choctaw 5967

Through the Commissioner
of Indian Affairs.

Acting Commissioner.

COPY.

Muskogee, Indian Territory, May 1906,

Chillion Riley,

Attorney at Law,

Ardmore, Indian Territory.

Dear Sir:

There is enclosed herewith for your information, copy of Departmental letter of May 12, 1906 (I.T.D. 3128-1902, 17440-1905), in reference to the application of Thomas Ashford for enrollment as a citizen by intermarriage of the Choctaw Nation.

The Department rescinds and vacates its action of May 16, 1902, affirming the decision of the Commission to the Five Civilized Tribes of April 9, 1902, denying the application of Thomas Ashford and directs that the case be readjudicated after a full hearing had upon the merits, at which the applicant should be heard.

You are accordingly advised that the Commissioner to the Five Civilized Tribes will, at his office at Muskogee, Indian Territory, on Monday, June 4, 1906, at nine o'clock A. M., hear the testimony of Mr. Ashford and such witnesses as he may desire to present, in reference to his right to enrollment as a citizen by intermarriage of the Choctaw Nation.

(2)

At said hearing documentary evidence will also be received for consideration and the attorneys for the Choctaw and Chickasaw Nations will be permitted to introduce such evidence and testimony as they may desire.

Respectfully,

SIGNED *Wm. O. Beall.*

Acting Commissioner.

OP 19-2

COPY.

Chester R 9

Muskogee, Indian Territory, April 6, 1902.

Thomas Ashford,
Caddo, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes in the matter of the application made by you for enrollment as a citizen of the Choctaw Nation.

The decision, with a copy of the proceedings had in the case, is this day transmitted to the Secretary of the Interior for his review and decision. The final decision of the Secretary will be made known to you as soon as the Commission is informed of the same.

Yours truly,

(SIGNED)

James Bixby.

Acting Chairman.

Enc T-1

Register

COPY.

Choctaw R 9

Muskegee, Indian Territory, April 9, 1902.

Messrs Mansfield, McFarray & Cornish,
Attorneys for the Choctaw and Chickasaw Nations,
South McAlester, Indian Territory.

Gentlemen:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes in the matter of the application for the enrollment of Thomas Ashford as a citizen of the Choctaw Nation.

The decision, with a copy of the proceedings had in the case, is this day transmitted to the Secretary of the Interior for his review and decision. The final decision of the Secretary will be made known to you as soon as the Commission is informed of the same.

Yours truly,

ENCLOSURE

Jams Bixby.

Acting Chairman.

Enc Y-2

Register.

Choctaw 7 2

COPY.

Muskogee, Indian Territory, April 9, 1902.

The Honorable,

The Secretary of the Interior.

Sir:

There is herewith transmitted the record of proceedings in the matter of the application of Thomas Ashford for enrollment as a citizen of the Choctaw Nation, including the decision of the Commission dated April 9, 1902, refusing the application for the enrollment of Thomas Ashford as a citizen of said nation.

Yours truly,

Tams Dixby.

SIGNED).

Acting Chairman.

1 enclosure.

Through the Commissioner
of Indian Affairs.

COPY

Refer in reply to the following:

Land

22707--1902.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON, May 13, 1902.

The Honorable

The Secretary of the Interior.

Sir:

There is enclosed herewith a report dated April 9, 1902, from the Acting Chairman of the Commission to the Five Civilized Tribes forwarding for the Department's consideration the record relative to the Application of Thomas Ashford for enrollment as an intermarried citizen of the Choctaw Nation.

April 9, 1902, the Commission held that the applicant was not entitled to enrollment as a citizen of said nation.

The record in this case shows that during the year 1869 the applicant was married to a Choctaw woman under and in accordance with the laws of the state of Arkansas. The applicant not having been married in accordance with the laws of the Choctaw Nation and not having been recognized as a citizen of said nation is not entitled to enrollment and it is respectfully recommended that the decision of the Commission be approved.

Very respectfully,
Your obedient servant

A.C. Tonner

G. A. W. (S)

Acting Commissioner

LPS

Copy

29406

DEPARTMENT OF THE INTERIOR.

WASHINGTON

May 16, 1902.

I. T. D. 3128-1902.

Commission to the Five Civilized Tribes,

Muskogee, I. T.

Gentlemen:

May 13, 1902, the Acting Commissioner of Indian Affairs transmitted the record in the matter of the application of Thomas Ashford for enrollment as a citizen of the Choctaw nation by intermarriage - R 9 - and recommended that your decision of April 9, 1902 be approved.

You state that the applicant in 1869 married a Choctaw woman under the laws of Arkansas; that he has never resided in the Indian Territory and that it does not appear that he has ever been enrolled or duly admitted to citizenship in the Choctaw Nation. You refused the application.

The department affirms your decision. Copy of the Acting Commissioner's letter is inclosed.

Respectfully,

Thos Ryan

Acting Secretary.

FMD

1 inclosure.

Choctaw R. O.

COPY.

Kuskogee, Indian Territory, May 24, 1902.

Thomas Ashford,

Caddo, Indian Territory.

Dear Sir:

You are hereby advised that the Secretary of the Interior under date of May 16, 1902, affirmed the decision of the Commission dated April 9, 1902, refusing the application made by you for the enrollment of yourself as a citizen of the Choctaw Nation by intermarriage.

Yours truly,

(SIGNED)

Tame Dixey

Acting Chairman.

Choctaw R 9

COPY.

Muskogee, Indian Territory, May 24, 1902.

Mansfield, McKurray & Cornish,

Attorneys for the Choctaw and Chickasaw Nations,
South McAlester, Indian Territory.

Gentlemen:

You are hereby advised that the Secretary of the Interior under date of May 16, 1902, affirmed the decision of the Commission dated April 9, 1902, refusing the application made by Thomas Ashford for the enrollment of himself as a citizen of the Choctaw Nation by intermarriage.

Yours truly,

(SIGNED)

James D. Doby,
Acting Chairman.

COPY.

Chectaw 5 9

Muskogee, Indian Territory, July 15, 1902.

T. G. Ashford,

Albany, Indian Territory.

Dear Sir:

Receipt is hereby acknowledged of your letter of the 6th instant, stating that you understand that a letter from the Commission addressed to you at Caddo, Indian Territory, has been returned to the Commission and you desire the same forwarded you at Albany, Indian Territory.

There is enclosed you herewith a letter from the Commission of April 9, 1902, addressed to Thomas Ashford, Caddo, Indian Territory, enclosing the decision of the Commission in the matter of his application for enrollment as a citizen of the Chectaw Nation, and also a letter of May 24, 1902, notifying Thomas Ashford that the Secretary of the Interior had affirmed the decision of the Commission refusing his application for enrollment as a citizen of the Chectaw Nation.

Yours truly,

SIGNED: *James Bixby.*

Acting Chairman.

Enc Y-1

COPY.

7-R-9

Muskogee, Indian Territory, August 20, 1902.

T. J. Ashford,
Albany, Indian Territory.

Dear Sir:

Receipt is hereby acknowledged of your letter of the 12th instant, relative to your right to enrollment as a citizen by intermarriage of the Choctaw Nation.

The Commission cannot advise you further in this matter than to inform you that your application for enrollment as a citizen by intermarriage of the Choctaw Nation was refused by this Commission April 9, 1902, which action was affirmed by the Secretary of the Interior May 16, 1902. Such action now becomes final and the Commission is without authority to accept or consider any further evidence in support of your application for enrollment.

Yours truly,

SIGNED *Tame Bixby.*

Acting Chairman.

(COPY)

G.R. LLB

D.C. 11755-1906.
I.T.D. 17440-1905.
L.R.S.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

March 21, 1906.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

For the purpose of passing upon a motion for a rehearing in the matter of the application of Thomas G. Ashford for enrollment as an intermarried citizen of the Choctaw Nation, you are requested to transmit to the Department a certified copy of the testimony taken, and your decision thereunder, in re enrollment of Samuel Hickman, whose name appears opposite No. 1514 upon the roll of Choctaw citizens by intermarriage, approved November 27, 1905.

Respectfully,

Through the Commissioner
of Indian Affairs.

(Signed) Thos. Ryan
First Assistant Secretary.

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE ASSISTANT ATTORNEY-GENERAL.
WASHINGTON.

J.R.W.
W.C.P.
P.W.C.

February 9, 1907.

I. C. D.
3128-1906
17440-1906.
7238, 23362-1906.

The Secretary of the Interior.

Sir:

I received for opinion, by reference of December 12, 1906, the record in case of Thomas G. Ashford for enrolment as a citizen by intermarriage of the Choctaw Nation. The Commissioner July 18, 1906, found that:

It appears from the record herein that on December 12, 1860, the applicant, Thomas Ashford, was lawfully married (in Arkansas) to Virginia Airington, a recognized citizen by blood of the Choctaw Nation; . . . that at the time of said marriage the applicant and his wife Virginia Airington were residents in good faith of the Choctaw Nation; that they lived together continuously as husband and wife in said nation until the death of Virginia Airington in 1880, and that said applicant has resided continuously in the Choctaw Nation from his said marriage up to and including September 25, 1902. I am therefore of opinion that . . . Thomas Ashford should be enrolled as a citizen by intermarriage of the Choctaw Nation under provisions of the act of Congress approved June 28, 1898 (30 Stat. 495, 503).

November 20, 1906, the Indian Office noted that no protest is filed by the Nation, and recommended approval of the action of the Commission.

The question presented is, whether, under the Choctaw law of October 1840, relative to white men marrying citizens of that nation, prior to the act of 1875 of the Choctaw Nation on

that subject, the intermarriage of a white man to a Choctaw citizen was required to be celebrated within the tribal jurisdiction and under a tribal license.

The act of 1840 provided that "no white man shall be allowed to marry in this nation unless he has been a citizen (resident) of the same for two years." A license was required "from some judge or the District Clerk" and celebration of the marriage by an authorized person "before he shall be admitted to the privilege of citizenship," and fine of \$100 was imposed upon persons celebrating a marriage "not agreeable to" the act. No license or revenue fee was required, and marriages not conformable to the act were not declared void.

Of this act of 1840 the Commission to the Five Civilized Tribes, after full investigation of the subject of intermarriage in the affiliated Choctaw and Chickasaw tribes, reported, February 17, 1903, in the case of Joseph Franklin Williams, that:

"It is conclusive that . . . white men who had married recognized and enrolled citizens of either of said tribes prior to the passage of the acts of 1875 in the Choctaw Nation and 1876 in the Chickasaw Nation were recognized and enrolled by the tribal authorities as intermarried citizens of these two nations.

This being the ascertained interpretation of the effect of their previous legislation established by the Indians themselves, is part of the law of these tribes, to be given effect if not inconsistent with any law of the United States, even though such Indian interpretation and practice be in effect to regard the law as a dead letter.

Whether this act of 1840 was or was not effective as to marriages within the territorial jurisdiction seems not material

to decision of the present case. The law did not in terms, nor by implication, prohibit excursion of a Choctaw woman outside the territorial jurisdiction to contract marriage; nor declare a marriage lawful at the place where contracted to be invalid in the Choctaw territory, nor yet that a marriage contracted in the nation, not conformable to law, should be void. It did not punish the parties, but merely rendered the person officiating amenable to a fine.

In the interest of good morals laws restrictive of marriage or defining how marriage may be contracted are construed no more broadly than their terms require, and marriages lawful and valid where celebrated are valid everywhere, unless expressly made invalid by the place of domicile. I am therefore of opinion that a valid marriage was shown, and that as the applicant was a white person who had married a Choctaw and resided in the Choctaw Nation in lawful wedlock with her, and so continued in good faith to do until her death, Ashford is a Choctaw within the intent and meaning and by force of Article XXXVIII of the treaty of July 10, 1866 (14 Stat. 769,799).

In this connection my attention was called to the decision of the United States Court, Central District, Indian Territory, citizenship case of W. R. Senter. In that case the claimant Senter was married in Texas, December 25, 1889, to a Choctaw citizen. This was after the Choctaw act of November 9, 1875. That law was much broader in its scope. It did not refer merely to marriages of white men to Choctaw women "in this nation," but to marriages of a white man to a Choctaw woman, citizen of the Choctaw

Nation;" (2) declared marriages not celebrated in conformity thereto, wherever celebrated, "null and void"; (3) it required payment of a revenue fee, not a mere license fee compensatory to the officer; (4) it required proof by ten recognized citizens of good character of the moral character of the man; (5) it exacted an oath of allegiance to the Choctaw Nation. The decision made I fully concur in. Marriage and naturalization are both subjects of public concern, proper for legislative regulation of every autonomous State or society, and legislation of this character by the Indian tribes is no doubt valid when not in contravention of any treaty or law of the United States. The Choctaw law of 1875 has not, so far as I am aware, ever been held invalid, but applies only to marriages occurring after its date.

The conduct of the nation toward the claimant shows that he was regarded as lawfully married to his Choctaw wife. The Choctaw act of October, 1849, provided that every white man living with an Indian woman without being lawfully married should be required to marry her lawfully or be required to leave the nation. The law of October 15, 1849, required the sheriff of every county to report to the governor every white man living in the county without permit, and removal by the governor. The law of October 3, 1877, required non-citizen white men to sell their improvements and go out of the nation, and on their failure the county sheriff were authorized to sell their improvements and report such persons to the governor for removal

from the nation. Lascivious cohabitation of unmarried persons was punishable under the act of October 11, 1849. Under none of these acts was Ashford proceeded against, but he lived unmolested with his wife, occupying communal lands and rearing his family as of right, which none questioned.

Upon the facts as shown by the record I am of opinion that the action of the Commissioner should be approved.

Very respectfully,

Frank L. Campbell,
Assistant Attorney-General.

Approved: February 9, 1907,

E. A. Hitchcock,
Secretary.

G.R.

DEPARTMENT OF THE INTERIOR, S.P.
WASHINGTON.

D.C. 9281-1907.
I.T.D. 23262-1906.
2912-1907.
7238-1906.

February 13, 1907.

LRS

DIRECT.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

In accordance with the approved opinion of the Assistant Attorney General for this Department, dated February 9, 1907 (I.T.D. 2912), a copy whereof is inclosed, your decision of July 18, 1906, rescinding the decision of the Commission to the Five Civilized Tribes of April 9, 1902, denying the application for the enrolment of James Ashford, as a citizen by intermarriage of the Choctaw Nation and granting his enrolment as an intermarried citizen thereof is hereby affirmed.

Your action in the analogous case of Samuel Hickman is also affirmed.

You will advise applicant and his attorney of this action.

A copy of Indian Office letter of November 20, 1906 (Land 62147), reporting in the matter, is inclosed.

The record has been sent to the Indian Office with a carbon copy hereof.

Respectfully,

2 inc. and AFMc
3 to Ind. 2-14-07

Thos Ryan
First Assistant Secretary.

Choctaw 6043


George A. Bumgarner

Mar 1, 1909 Dept requests report
as to certain persons including This
applicant

Mar 15, 1909 Dept refers for report letter
of Walter S. Field

April 15, 1909 Report To Dept

Granted 10-15-06



6043

Muskogee, Indian Territory, January 8, 1906.

The Honorable,

The Secretary of the Interior.

Sir:

On December 6, 1905, (I. T. D. 11327-1905) the Secretary of the Interior referred to this office for report a petition of Chester Howe in the matter of the claim of Mrs. Lou Bumgarner and her children to enrollment as citizens of the Choctaw Nation; also statement of Mrs. Lou Bumgarner and certificates of A. R. Durant and Solomon J. Homer to the enrollment of John H. Bumgarner, Lou Bumgarner, George Bumgarner, William Bumgarner, Annie Bumgarner, Pink Bumgarner and Bob Bumgarner by the Choctaw Revisory Board, January 14, 1897.

Reporting in this matter I have the honor to advise that the names of Jno. W. Bumgarner, Lou Bumgarner, Geo. Bumgarner, Wm. Bumgarner, Annie Bumgarner, Pink Bumgarner and Bob Bumgarner appear upon the 1896 census roll of the citizens of the Choctaw Nation, Blue County, opposite Nos. 1681 to 1687 inclusive, respectively, and that opposite their names is the notation

"Enrollment without authority of law."

I have further to report that it does not appear from the records of this office that application has been made by or on behalf of the persons above named for enrollment as citizens of the Choctaw

Nation prior to December 25, 1902.

It is alleged in the statement of Mrs. Lou Bungarner accompanying the petition of Chester Howe that she is a citizen by blood of the Choctaw Nation and has resided in the Choctaw-Chickasaw country since February 1880; that she has made no application to the Commission to the Five Civilized Tribes not knowing that any necessity existed therefor and believing that her citizenship was complete, and that she did not know until recently that her citizenship was contested.

I have therefore to recommend, inasmuch as no application was made to the Commission to the Five Civilized Tribes prior to December 25, 1902, for enrollment as citizens of the Choctaw Nation of Mrs. Bungarner and her children above named, that Mr. Howe be advised that under the provisions of the act of Congress approved July 1, 1902, there is now no authority for the reception of original applications for enrollment in the Choctaw and Chickasaw Nations.

The petition of Chester Howe is herewith returned.

Respectfully,

Tams Bixby, Commissioner.

Through the Commissioner
of Indian Affairs.

KB 1-5.

SECRETARY'S OFFICE
DEPARTMENT OF THE INTERIOR
WASHINGTON, D. C.

LLB

I.T.D. 2040-1906.

February 10, 1906. 

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

On December 6, 1905, a petition seeking the enrollment of Mrs. Lou Bumgarner and her children as citizens of the Choctaw Nation, filed in the Department December 1, 1905, was sent to you for consideration and recommendation.

January 8, 1906, you reported that while the names of the claimants are found upon the 1896 census roll of the nation, it is noted opposite their names "Enrollment without authority of law;" that it does not appear from the records of your office that application was ever made by or on behalf of these persons for enrollment as citizens of the Choctaw Nation prior to December 25, 1902.

It is alleged in the petition that Mrs. Bumgarner is a citizen of said nation and has resided in the nation since 1880. She admits that she had no previous application, not knowing that any necessity existed therefor, and believed that her citizenship was complete.

Under the circumstances you recommend that the attorney filing the petition be advised that there is now no authority for the reception of original applications for enrollment as citizens of the Choctaw and Chickasaw Nations.

Reporting in the matter February 5, 1906, the Indian Office
concurs in your recommendation. A copy of its letter is inclosed.

The department also concurs and the petition is hereby denied.
You will also advise the party in interest through her attorney.

Respectfully

Thos Ryan
First Assistant Secretary.

1 inclosure.

Indorsed on back as follows:
Commissioner to the Five Civilized Tribes.
No. 5971
Received
Feb 15 1906
13839
Department,
Ryan,
Washington, D. C.
Feb. 10, 1906.

Denied application of Mrs. Lou Bungarner for enrollment of her-
self and children as citizens of the Choctaw Nation.

Wm. O. B.
3/5/06.
A.B.

C O P Y

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

Land
2547-1906.

February 5, 1906.

The Honorable,

The Secretary of the Interior.

Sir:

Referring to Departmental letter of December 6, 1905, I.T.D. 11327, transmitting to the Commissioner to the Five Civilized Tribes, for report, a petition filed by Chester Howe, in the matter of the claim of Mrs. Lou Bumgarner and her children, for enrollment as citizens of the Choctaw Nation; also statement of Mrs. Bumgarner and certificate of A. R. Durant and Solomon J. Homer to the enrollment of John H., Lou, George, William, Annie, Pink, and Bob Bumgarner by the Choctaw Revisory Board, on January 14, 1897, there is enclosed a report from the Commissioner to the Five Civilized Tribes, dated January 8, 1906, returning said petition.

Mr. Bixby says that the names of John W., Lou, George, William, Annie, Pink, and Bob Bumgarner appear on the 1896 Census Roll of citizens of the Choctaw Nation, Blue County, opposite numbers 1681 to 1687, inclusive, and that opposite their names is the following notation: "Enrollment without authority of law."

He further reports that it does not appear from the records of his office that application was ever made by or on behalf of the persons above named for enrollment as citizens of the Choctaw Nation

prior to December 25, 1902.

It is alleged in the petition of Mrs. Lou Bumgarner that she is a citizen by blood of the Choctaw Nation and has resided in the Choctaw Nation since February, 1880; that she made no application to the Commission to the Five Civilized Tribes, not knowing that any necessity existed therefor and believing that her citizenship was complete; and that she did not know until recently that her citizenship right was contested.

Inasmuch as no application was made for the enrollment of Mrs. Lou Bumgarner and the other persons above mentioned, prior to December 25, 1902, the Commissioner to the Five Civilized Tribes recommends that Mr. Howe be advised there is now no authority for the reception of original applications for enrollment, as citizens of the Choctaw and Chickasaw Nations.

From the report of the Commissioner to the Five Civilized Tribes it appears that the applicants did not apply within the time fixed by law, and their applications cannot now be considered, and the Office concurs in the recommendation of the Commissioner.

Very respectfully,

C. F. Larrabee
Acting Commissioner.

GAW-GH.

3 Enclosures.

5971.

Indorsed on back as follows:

Department of the Interior

Received

Feb 6-1906.

Enc. No. 1 of No. 2040, Indian Territory Division.

C O P Y

J.P.

DEPARTMENT OF THE INTERIOR, ILB
WASHINGTON.

I.T.D. 2727-1906.

April 17, 1906.

L.R.S.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

Referring to departmental letter of February 10, 1906, (I.T.D. 2046), you are advised that a motion for review has been filed in the Choctaw enrollment case of Mrs. Lou Bumgarner et al.

Respectfully,

Thos Ryan.
First Assistant Secretary.

Through the Commissioner
of Indian Affairs.

Indorsed on back as follows:

INDEXED.

COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

RECEIVED, APR 23 1906.

34489.

No. 14226.

OK, No ans.

Department,

Ryan,

Washington, D. C.

States motion for review has been filed in Choctaw enrollment case of Mrs. Lou Bumgarner, et al.
Wm. O. B. 4/28/06.

C O P Y

PHE.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

I.T.D. 2040-1906.
2727- "

April 30, 1906.

GRS.

The Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

Referring to Departmental letters of February 10 and April 17, 1906, relative to the Choctaw enrollment case of Lou Bumgarner and her children, the motion for review therein mentioned is inclosed, and you are directed to adjudicate the case in accordance with the act of April 26, 1906, (Public No. 129), copies of which will soon be furnished you. The Indian Office has been requested to transmit herewith the petition which was denied by the Department February 10, 1906.

Respectfully,

Thos. Ryan
First Assistant Secretary.

1 inclosure.

Indorsed on back as follows:
Commissions to the Five Civilized Tribes.
No. 15965
Received May 5, 1906., 38383.
Department,
Ryan.

Washington, D. C.

April 30, 1906.

Returns motion for review in Choctaw enrollment case of Lou Bumgarner and her children, and directs that case be readjudicated in accordance with act of April 26, 1906.

COPY.

Muskogee, Indian Territory, May 31, 1906.

Mansfield, McMurray & Cornish,

Attorneys for Choctaw and Chickasaw Nations.

South McAlester, Indian Territory.

Gentlemen:

You are hereby advised that on April 30, 1906 (I.T.D. 2040, 2727-1906) the Secretary of the Interior returned to this office for readjudication under the act of Congress approved April 26, 1906, the petition of Lou Bungarner for enrollment of herself and her children as citizen of the Choctaw Nation. You are therefore hereby notified that in accordance with Departmental instructions the Commissioner to the Five Civilized Tribes will at his office in Muskogee, Indian Territory, Monday, June 18, 1906, at one o'clock P. M., hear the testimony of witnesses in support of the application for the enrollment of Lou Bungarner and her children as citizens of the Choctaw Nation.

Respectfully,

SIGNED *Tams Bixby*.

Commissioner.

COPY.

Muskogee, Indian Territory, May 31, 1906.

Chester Howe,

Washington Loan & Trust Building,

Washington D. C.

Dear Sir:

You are hereby advised that on April 30, 1906 (I.T.D. 2040, 2727-1906) the Secretary of the Interior returned to this office the petition of Lou Bungarner for the enrollment of herself and her children as citizens of the Choctaw Nation and the motion of Chester Howe for review of Departmental decision of February 10, 1906, and directed that this case be readjudicated in accordance with the act of April 26, 1906.

You are therefore hereby advised that the Commissioner to the Five Civilized Tribes will at his office in Muskogee, Indian Territory, on Monday June 18, 1906, at one o'clock P. M., hear the testimony of such witnesses as may be introduced in support of the application for the enrollment of Lou Bungarner and her children as citizens of the Choctaw Nation.

Respectfully,

SIGNED *Tamc Bixby*

Commissioner.

Memo.---

Department of the Interior,
Commissioner to the Five Civilized Tribes.
Muskogee, Indian Territory, June 18, 1906.

In the matter of the alleged application for the enrollment of Lou Bumgarner, et al., as citizens of the Choctaw Nation.

On December 1, 1905, there was filed with the Department of the Interior a petition on behalf of Lou Bumgarner and her minor children, John F., Lee, William, Annie, Pink, Bob, and George A. Bumgarner, as citizens of the Choctaw Nation.

On December 6, 1905, said petition was forwarded by the Department to this office for report and recommendation.

On January 8, 1906, this office reported that while the names of the claimants are found upon the 1896 Census Roll of the nation, it is noted opposite their names "Enrolled without authority of law"; that it does not appear from the records of said office that application was ever made by or on behalf of these persons for enrollment as citizens of the Choctaw Nation prior to December 25, 1902, and recommended that the applicants and their attorneys be advised that there is now no authority for the reception of original application for the enrollment of citizens of the Choctaw and Chickasaw Nations.

On February 10, 1906 (I.T.D. 2040-1906), the Department concurred in the recommendation of this office and denied said petition.

On April 17, 1906 (I.T.D. 2727-1906), the Department notified this office that a motion for review had been filed with the Department in the Choctaw enrollment case of Mrs. Lou Bumgarner, et al.

On April 30, 1906 (I.T.D. 2040, 2727-1906), the Department forwarded to this office the motion for review filed in this case, and directed that the same be adjudicated in accordance with the Act of April 26, 1906.

On May 31, 1906, this office advised Chester Howe of Washington, D. C., attorney for the applicant, and Mansfield, McMurray & Cornish, attorneys for the Choctaw and Chickasaw Nations, of the action of the Department, and notified them that the Commissioner to the Five Civilized Tribes would, at his office at Muskogee, Indian Territory, on Monday, June 18, 1906, at one o'clock P. M., hear the testimony of such witnesses as might be introduced in the matter of said application.

Now on this 18th day of June, 1906, this cause coming on to be heard, the following appearances were entered and proceedings had:

The applicant, Lou Bumgarner, appears in person.
C. Rosenwinkel, on behalf of Mansfield, McMurray & Cornish, attorneys for the Choctaw and Chickasaw Nations.

LOU BUMGARNER, being first duly sworn, testified as follows:

Examination by the Commissioner:

- Q What is your name? A Lou Bumgarner.
Q How old are you? A Thirty-nine years old.
Q What is your post office? A Duncan, I. T.
Q Do you claim rights as a citizen by blood of the Choctaw Nation?
A Yes sir.
Q Are the petitioners, John H., Lee, William, Pink, and Bob, your own children? A Yes sir.
Q And George A. Bumgarner is not your son? A Stepson.
Q Have you ever personally appeared before the Commission or Commissioner to the Five Civilized Tribes and made application for enrollment as a citizen of the Choctaw Nation? A No sir, I never appeared before the Dawes Commission.
Q Have you ever written to the Commission or Commissioner to the Five Civilized Tribes relative to your rights as a citizen of the Choctaw Nation? A No sir.
Q Have you ever written to the Department relative to your rights?
A No sir.
Q You have never done anything in any way then? A Why, my lawyer has written for me.
Q Chester Howe? A Yes sir.
Q And what he did is the only thing that has been done in your behalf? A Well, I had other attorneys before him.
Q Did they ever take the matter up with this office in any way?
A I think so; the Gilbert Bros. is the ones that worked for us before I got Mr. Howe.
Q Well, do you know whether or not any letters have been addressed to this office relative to your rights as a citizen of the Choctaw Nation? A Why, I suppose the Gilbert Bros. written.
Q Do you know whether they have or not? A They assured me that our rights was held as certain.
Q Did they tell you what they had done in the matter? A No, I don't remember that they did.
Q Did they ever tell you what they did? A Well, they carried our evidence before the Choctaw board of the Dawes Commission; Choctaw board, I suppose.
Q What year? A It was in '96 or 7; it was nine years ago last January, sometime between the 1st and 10th of January.
Q And since that time they have had nothing to do with your case?
A No sir.
Q What is the name of your husband? A John H. Bumgarner.
Q Is he living? A No sir.
Q When did he die? A Been dead nine years.
Q Is George A. Bumgarner living? A Yes sir.

Inasmuch as it appears from the testimony of the applicant herein and from the records in the possession of this office that no application has ever been made for the enrollment of Lou Bumgarner, John H. Bumgarner, Lee Bumgarner, William Bumgarner, Pink Bumgarner and Bob Bumgarner as citizens of the Choctaw Nation prior to December 1, 1905, no testimony will be received relative to the merits of this case.

It appears from the records of the Commission to the Five Civilized Tribes that on September 8, 1896, in the case entitled

"Sidney Bumgarner, et al., and Lewis M. Hyten vs. Choctaw Nation", (1896 Choctaw Citizenship Docket, Case No. 620), original application was made to said Commission under the provisions of the Act of Congress approved June 10, 1896 (29 Stats., 321), for the admission of George Bumgarner (as George Bungoner) as a citizen by blood of the Choctaw Nation; and that on December 2, 1896, said Commission rendered its decision therein, denying said application, from which decision no appeal was taken. The name of George Bumgarner appears upon the 1896 Census Roll of citizens of the Choctaw Nation, opposite No. 1683, as fourteen years of age, and opposite his name appears the notation "Enrolled without authority of law".

- Q Who is the mother of George Bumgarner? A She was a Miss Miller.
- Q What is her full name? A Mary, I think.
- Q Is she living? A No sir.
- Q When did she die? A She has been dead about twenty-two years; she died when George was only a year old, I think.
- Q Are her parents living? A No sir.
- Q Are any of her brothers or sisters? A Never had but one sister, Mina Lindsey.
- Q Is she living, Mrs. Lindsey? A Yes sir.
- Q Was Mary Miller ever recognized as a citizen of the Choctaw Nation? A Yes sir.
- Q In what way? A I don't know that; I could explain to you.
- Q Has Mrs. Lindsey been recognized as a citizen of the Choctaw Nation? A Yes sir.
- Q Did she draw the '93 money? A Yes sir, so she says.
- Q Who was the mother of Mary Miller? A Why, her maiden name was Keene, if I am not mistaken.
- Q What was her full name? A Catherine, if I am not mistaken; it is so long since I knew her.
- Q What was she, a white woman? A I can't tell you that.
- Q Don't know anything about it? A I don't know whether she claimed anything or not.
- Q Who was the father of Mary Miller? A He was called Captain Miller.
- Q What was he? A He claimed Choctaw Indian blood.
- Q Did you know whether he had Indian blood? A I don't know positive whether he did or not.
- Q Are you acquainted with the family history of the Miller's? A No sir, I knew him in his life time.
- Q When did he die? A He has been dead seventeen years.
- Q Who is the father of George Bumgarner? A J. H. Bumgarner.
- Q Was he a white man? A Yes sir.
- Q Was he married to Mary Miller? A Yes sir.
- Q When did he marry her? A Why, he must have married her a good many years ago. I think they had lived as man and wife for about twelve years when she died.
- Q Where did he marry her? A I can't say whether he married her in Texas or Indian Territory; I rather think he married her in the Territory.
- Q Do you know whether he got a Choctaw license to marry her? A I couldn't say.
- Q You are not acquainted with the family history of the Millers' sufficient to testify whether your stepson, George Bumgarner, has Choctaw blood? A Not well enough to swear; I don't know anything only from what I understand.

- Q When did you first become acquainted with this branch of the family? A Twenty years back.
- Q Where has George Bumgarner lived since his birth? A In Weatherford, Texas, now.
- Q How long has he been there? A Lived there little over a year.
- Q Where did he live before that? A With me and my children, and some of the time with his aunt, Mrs. Lindsey.
- Q Whereabouts? A At Ardmore.

By Mr. Rosenwinkel:

- Q Were you personally acquainted with Mary Miller, mother of this child? A No sir, I couldn't say so, though I am very well acquainted with her sister, Mrs. Lindsey.
- Q Mrs. Bumgarner, this child, George, was living in 1893, was he not? A Why, I suppose so; he is twenty-three years old, now.
- Q So far as you know, he didn't receive the 1893 Leased District money? A I think not.
- Q The only recognition that was ever afforded him so far as you know is this alleged enrollment on the 1896 roll? A Yes sir.
- Q Who had charge of that enrollment; who had the care of it for you? A My husband tended to it before his death; Gilbert Bros. was his attorneys.
- Q Did your husband ever appear before the tribal authorities of the Choctaw tribe? A Yes sir.
- Q Do you know whether he appeared at Tuskahoma in January, 1897? A Yes sir.
- Q So far as you know that is the first attempt he made to secure any recognition by the tribal authorities? A I suppose so, but I am not sure; he was recognized from the time I knew him.
- Q You don't know or never heard of him going to the Choctaw Council or any citizenship Committee of the Choctaw Nation prior to that time did you? A Not that I know of; I may have.
- Q Did you know your husband in 1893? A I ain't no good at counting back, but I have known him for twenty years.

By the Commissioner:

- Q When were you married to him? A Nineteen years ago last December.

By Mr. Rosenwinkel:

- Q Then you have known him since about the year 1886? A I knew him a year before we was married.
- Q When were you married? A We was married nineteen years ago last December.
- Q Where were you married, Mrs. Bumgarner? A We was married near Healdton, a little town.
- Q In the Chickasaw Nation? A Yes sir.
- Q Where did you procure your marriage license? A He procured them from the capitol; he taken out a Choctaw license.
- Q Where did he get it? A From the capitol.
- Q What capitol? A At Tishomingo.
- Q Your statement is that he got his license from the Choctaw Capitol at Tishomingo? A Yes sir.
- Q Did you go with him? A No sir, but my father did.

- Q Did he represent you as a white woman or a Choctaw? A As Choctaw.
- Q Did he represent both of you as Choctaws? A No sir, he was a white man.
- Q Don't you know that there were no Choctaw tribal licenses issued at Tishomingo? A Why, I don't know whether that was the capitol at that time.
- Q Don't you know that was the Chickasaw Nation and not the Choctaw Nation? A Tishomingo is in the Chickasaw Nation?
- Q Yes ma'am? A I don't know.
- Q You don't know much about this whole business? A Not much.
- Q Where was your husband living at the time of his marriage? A In the Territory near Healdton.
- Q Renting land? A Holding land.
- Q Who was he holding it under? A Why, under his first wife, she was considered a Choctaw Indian.
- Q Where were you living at that time? A I was living in the Territory.
- Q Near what place? A Near Healdton.
- Q Living with your parents? A Yes sir.
- Q Your parents were renting land were they not? A They held land.
- Q I asked you whether they were renting land? A No sir, we didn't rent land; they just came there from Texas and took up land.
- Q Never rented any? A No sir.

(Witness excused.)

Lenora B. Ashton, as stenographer to the Commissioner to the Five Civilized Tribes, on oath states that she reported the testimony in the above entitled cause on the 18th day of June, 1906, and that the above and foregoing transcript is a true and complete translation of her stenographic notes.

Lenora B. Ashton

Subscribed and sworn to before me this 22nd day of June, 1906.

Charles Webster
Notary Public.

Muskogee, Indian Territory, July 8, 1906.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to acknowledge receipt of Departmental letter of June 26, 1906 (I.T.D. 7525-1906), transmitting for immediate report and recommendation a petition of Lou Bumgarner relative to the right to enrollment of herself and children as citizens of the Choctaw Nation.

The petition transmitted is signed by Chester Howe, attorney for petitioners, and attached thereto are the affidavit of Mrs. Lou Bumgarner of June 9, 1906, copy of a letter dated May 31, 1906, from Tama Bixby, Commissioner to the Five Civilized Tribes to Chester Howe, Washington, D. C., and the affidavits of George Dilliard of October 5, 1898, and of Martha A. Shirley of March 20, 1906.

The petition alleges that Lou Bumgarner is a Choctaw Indian by blood; that she was duly enrolled upon the 1896 census roll of the Choctaw Nation and that her final enrollment and allotment has been denied by the Commissioner to the Five Civilized Tribes; and that on December 1, 1905, she filed a petition with the Secretary of the Interior, which was on December 6, 1905,

referred to the Commissioner to the Five Civilized Tribes for consideration and recommendation.

It is further alleged that the Commissioner to the Five Civilized Tribes reported on January 8, 1906, that the names of the petitioner, Lou Bungarner, and her children, were found upon the 1896 Choctaw census roll with the notation "enrolled without authority of law."

Mr. Howe refers to Departmental decision of February 10, 1906 (I.T.D.2040-1906), concurring in the recommendations of the Commissioner to the Five Civilized Tribes, and to a motion for review filed by the applicant, and to Departmental action of April 30, 1906 (I.T.D.2040, 2727-1906), directing that a hearing be granted Mrs. Bungarner.

The petition then states that on May 31, 1906, Cheater Howe was notified by the Commissioner to the Five Civilized Tribes that a hearing would be had in reference to Mrs. Bungarner's right to enrollment as a citizen by blood of the Choctaw Nation at Muskogee, Indian Territory, June 18, 1906, at one o'clock P. M.; that on said date Mrs. Bungarner appeared before the Commissioner to the Five Civilized Tribes, when she was refused a hearing and that the Commissioner declined to receive or consider the affidavits of Marcha A. Shirley and George Dillard, which are attached to the petition.

The petition concludes with the prayer that the Secre-

tary of the Interior order and direct the Commissioner to the Five Civilized Tribes to make a complete hearing in said case; to accept any proof offered and to forward the same for the review and consideration of the Secretary of the Interior.

Mrs. Bumgarner in her affidavit, which is subscribed and sworn to June 19, 1906, before George T. Putty, a Notary Public for the Southern District of the Indian Territory, alleges practically the same facts as are contained in Mr. Howe's petition and states in reference to her appearance before the Commissioner to the Five Civilized Tribes of June 18, 1906, as follows:

"The said Tom Dixby treatment to me was absolutely contemptible, and was unworthy the respect of a gentleman much less a lady judging from his own action that he assumed to himself that he was of so much importance and so large in his own estimation that President Roosevelt's Overcoat would not make him a jacket, he said to me "that you have been sitting around up there for the last 6 or 9 years doing nothing that if one of your pigs got out into your neighbors pen, you would have been right after it,"

With the return of the petition and the exhibits attached thereto, I have the honor to report in reference thereto as follows:

It appears that on December 1, 1905, there was filed with the Indian Territory Division of the Department of the Interior at Washington, D. C., by Chester Howe, attorney at law, a petition on behalf of Lou Bumgarner, alleging that she and her children were entitled to enrollment as citizens of the Chectaw Nation. This petition prayed that a reference thereof be made

to the Commissioner to the Five Civilized Tribes, with instructions to report fully upon the facts in reference to the case and that Mrs. Bungarner be permitted to introduce testimony showing the identity of herself and her minor children with parties named in a certificate attached to the petition and that upon proof she with her children be adjudged and decreed entitled to enrollment as citizens of the Choctaw Nation.

This petition was referred by stamp to this office for early report and recommendation December 6, 1905.

January 3, 1906, I returned the petition to the Department, reporting that the names of Jno. W. Bungarner, Lou Bungarner, Geo. Bungarner, Wm. Bungarner, Annie Bungarner, Pink Bungarner and Bob Bungarner appeared upon the 1896 census roll of the citizens of the Choctaw Nation, Blue County, opposite Nos. 1681 to 1687, inclusive, but that upon said roll opposite their names appeared the notation "enrollment without authority of law."

I further reported that it did not appear from the records of this office that any application of any character had been made by or on behalf of said persons for enrollment as citizens of the Choctaw Nation prior to December 25, 1902, and recommended that in view of said fact Mr. Howe be advised that under the provisions of the Act of Congress approved July 1, 1902 (32 Stats., 641), there was no authority for the reception and con-

consideration of original applications for enrollment as citizens of the Choctaw and Chickasaw Nations.

The Department on February 10, 1906, (I.T.D. 2040-1906) concurred in my recommendations and also those of the Acting Commissioner of Indian Affairs of February 5, 1906, (Land 2547-1906) and denied the petition and directed that the party in interest be so advised, through her attorney.

The Department's instructions in this matter were followed and no further action was taken in reference to the petition until this office was advised by the Department on April 17, 1906, (I.T.D. 2727-1906) of the filing of a motion for review in the case of Mrs. Lou Bungarner, et al.

The Department on April 30, 1906 (I.T.D. 2040, 2727-1906), transmitted the motion for review, referred to in Departmental letter of April 17, 1906, and directed the adjudication of the case in accordance with the provisions of Section 1 of the Act of Congress approved April 26, 1906 (Public --No. 129).

In conformity with the Department's instructions of April 30, 1906, Chester Howe, Washington, D. C., the attorney for the petitioner, Lou Bungarner, and Messrs. Mansfield, McMurray & Cornish, the attorneys for the Choctaw and Chickasaw Nations, South McAlester, Indian Territory, were on May 31, 1906, notified that the Commissioner to the Five Civilized Tribes would, at his office at Muskogee, Indian Territory, on Monday, June 18, 1906,

at one o'clock P. M., hear the testimony of such witnesses as might be introduced in support of the application for the enrollment of Lou Bungarner and her children as citizens of the Choctaw Nation.

On the date set for said hearing, Mrs. Bungarner did appear before this office, but was not represented by an attorney, the Choctaw and Chickasaw Nations being represented by G. Rosenwinkel, appearing on behalf of Messrs. Mansfield, McMurray and Cornish, the attorneys for the Choctaw and Chickasaw Nations.

Mrs. Bungarner was duly sworn and her testimony taken at said hearing and I have the honor to transmit herewith for the information of the Department, a copy of the proceedings had before this office on June 18, 1906.

I desire to particularly invite the attention of the Department to the fact that apparently the first step taken by Mrs. Bungarner or any person on her behalf to secure her final enrollment as a citizen of the Choctaw Nation, was the filing of the petition by Chester Howe with the Department on December 1, 1905.

I desire in this connection to supplement my report of January 8, 1906, by the statement that it does not appear from the records of this office that any application was made by or on behalf of Mrs. Bungarner for enrollment as a citizen of the Choctaw Nation prior to December 1, 1905.

Section 1 of the Act of Congress approved April 26, 1906 (Public--No. 129), provides in part as follows:

"That after the approval of this Act no person shall be enrolled as a citizen or freedman of the Choctaw, Chickasaw, Cherokee, Creek, or Seminole tribes of Indians in the Indian Territory, except as herein otherwise provided, unless application for enrollment was made prior to December first, nineteen hundred and five, and the records in charge of the Commissioner to the Five Civilized Tribes shall be conclusive evidence as to the fact of such application."

I personally advised Mrs. Bugarner of this provision of law and that as she was unable to produce any evidence to show any application made for her enrollment prior to December 1, 1905, this office was without authority or jurisdiction to consider and determine the question of her right to enrollment as a citizen of the Choctaw Nation.

The allegations made in Mrs. Bugarner's affidavit of June 19, 1906, are not correct. My conduct towards her certainly could not be characterized as "contemptible and unworthy the respect of a gentleman."

I did, however, endeavor to impress upon her the fact that through her own negligence she had possibly been precluded from a determination of her right to final enrollment as a citizen of the Choctaw Nation.

Mrs. Bugarner did not impress me as a woman of more than ordinary intelligence, and not being represented by an attorney, and having no one to advise her, I attempted to the best

of my ability to explain the conditions existing in reference to the submission and consideration, at this late date, of her application for enrollment as a citizen of the Choctaw Nation.

This case is now under consideration and a formal decision will be promulgated and transmitted to the Department in the regular course of business.

Respectfully,

SIGNED

Tamc Dwyer

Commissioner.

Through the Commissioner of
Indian Affairs.

OP 5-1

BEFORE THE HON. SECRETARY OF THE INTERIOR.
AND
THE HON. COMMISSIONER OF INDIAN AFFAIRS.

In the matter of the application of Mrs. Lou Bumgarner, et al.,

CASE No. _____

For identification and enrollment as Choctaw Indians, by blood

Gentlemen:

Please enter my appearance in the above-entitled case, on
behalf of the applicants, and inform me of any action taken
therein.

Chester Howe.
Attorney-at-law,

Washington Loan and

Trust Bld.

Washington, D. C.

DEPARTMENT OF THE INTERIOR.

RECEIVED OCT 1, 1905.

Enc. No. 2 of No. 11327 Indian Territory Division.

BEFORE THE HONORABLE SECRETARY OF THE INTERIOR.

P E T I T I O N .

Comes now, Mrs. Lou Bumgarner, and respectfully petitions the Honorable Secretary of the Interior for the exercise of his supervisory authority in the matter of the application for herself and her minor children, whose names are fully set forth in the affidavit hereunto attached, and respectfully prays:

1st. That a reference to this Petition may be made to the Commissioner to the Five Civilized Tribes.

2d. That instructions may be issued to said commissioner to report fully upon the case as set forth in said affidavit.

3d. That she may be permitted to introduce testimony showing the identity of herself and her minor children with the parties who were enrolled as Choctaw Indians in the certificate hereunto attached.

4th. That the records showing prior applications made on behalf of said parties by the husband, now dead and all of the records made, be included for consideration in this matter.

5th. That upon further proof, she, together with her minor children, may be adjudged and decreed to be entitled to enrollment as a Choctaw Citizens

Chester Howe.
Atty. for Petitioners.

Before the Honorable secretary of the Interior Washington,
D. C.

-----O-----

In the matter of the application of Lou Bungarner, for enrollment as a citizen of the Choctaw Tribe or Nation of Indians by blood, The applicant herein would most respectfully state that her great grand father Stephens was a white man, and married a full blood Choctaw Indian woman who was the mother of Jessie Stephens my grandfather, through whom I inherited my Choctaw blood, The said Jessie Stephens was the father of Martha Stephens my mother, who married S. P. Shirley, my father, I have resided in the Chickasaw Choctaw Country ever since February 1880. have maintained tribal relations with Choctaw tribe of Indians since my arrival in the Choctaw Country, I was born in the Choctaw Country on 16 day of May 1867, born to the allegiance of the Choctaw tribe of Indians, when a girl moved with my father to Texas, returned with him to the Chickasaw nation where on the 2 day of December A. D. 1886. I was married to one Hubbard Bungarner who was at that time an intermarried Choctaw, he having previously having married a Choctaw Indian woman, she dying, he married me. we were married under the Choctaw law, he taking out the Fifty Dollar license required under Indian laws I lived with the said Hubbard Bungarner until his death, which occurred on the 22 day of April 1897, The following named children were born to us while living in lawful wedlock, John H. Lee, William, Pink, Bob,- George A. Bungarner was a son of My husband by his first wife, all of the above named are now living. We were all enrolled at Tuskahoma I. T. by the Choctaw Revisory board on January 14 1897 and a certificate of citizenship issued to us under the seal of the Choctaw Nation by Solomon J. Homer the

National Secretary. I never made application to the Dawes Commission not knowing that there was any necessity existing therefore, believing that my citizenship was complete, and never knew until recently that my citizenship was contested and therefore make this appeal to the Honorable secretary of the interior that justice may be done.

Marlow I. T.

Nov 20/05

Mrs. Lou Bumgarner.

CERTIFICATE OF RECORD.

UNITED STATES OF AMERICA,
Indian Territory,

SOUTHERN DISTRICT.

I, C. M. Campbell, Clerk of the United States court within and for said District do hereby certify that the instrument hereto attached was filed for record in my office the 18th day of April 1898, at 3 P. M., and duly recorded in Book "O" Page "296"

WITNESS, My hand and seal of said Court at Ardmore in said District, this 18th day of April A. D. 1898.

(SEAL)

C. M. Campbell, Clerk.

981 John H. Bungarner
 982 Lee Bungarner
 983 George Bungarner
 984 William Bungarner
 985 Annie Bungarner
 986 Pink Bungarner
 9887 Bob Bungarner

This is to certify that the above names were enrolled on the legal Citizenship of the Choctaw Nation by the Chief Commissioner board at Tuskahoma

This January 14th 1897

A. P. Durant

Chairman.

P Davis A. Homer

Clerk

This is to certify that A. R. Durant is the duly appointed Chairmen of the Board of Census Commissioners, appointed under an Act of the General Council of the Choctaw Nation, passed at the regular session of 1896, for the purpose of enrolling citizens of the Choctaw nation,

Given under my hand and the seal of the Choctaw Nation at the city of Caddo, I. T. this the 23rd day of January 1897.

Solomon J. Homer

National Secretary

Choctaw Nation.

(SEAL)

Indorsed on back as follows: 296

FILED, FOR RECORD.
 Apr 18 1898 3P.M.
 C. M. Campbell, Clerk.

UNITED STATES OF AMERICA)
DISTRICT OF COLUMBIA) S. S.

Chester Howe being duly sworn, according to law, on oath, states that he is attorney for the Petitioner in the foregoing application of Lu Fungarner for herself and her minor children. That said application is made in good faith, and not for the purpose of delay. That a true and correct copy of the foregoing petition, together with the exhibits thereunto attached, has been served upon the attorneys for the Choctaw and Chickasaw Nations, by mailing same by registered letter, addressed to Messers Mansfield, McMurray & Corn sh, South McAlester, Indian Territory, registry receipt for which is hereunto attached.

Chester Howe.

Subscribed and Sworn to before me this 21 day of December A. D. 1905.

John L. Fletcher.

Notary Public. in and
for the District of
Columbia.

(SEAL)

(Registry Receipt Attached)

EE 1-5

Before the Hon Secy of the Interior.

Petition of Lou Bumgarner Et al for Enrollment
as Choctaw Indians by blood.

DEPARTMENT of the Interior.
Dec 6 1905.
Respectfully referred to the Commissioner
to the Five Civilized Tribes
for early report and recommendation.

Thos. Ryan

First Assistant Secretary.

LRS.

Chester Howe,
Attorney

3547, Indian Office
Incl. No. 2. 1906.

Department of the Interior.
Feb. 6, 1906.
Retrured herewith No. 2040
Inclosure 3, Ind. Ter. Div.

Department of the Interior
Received, Feb 1 1905.
Inc No. 1 of No. 11327.
Ind Ter. Div.

BEFORE THE HONORABLE
SECRETARY OF THE INTERIOR.

LOU PUMGARNER, ET AL FOR
ENROLMENT IN THE CHOCTAW
NATION.

MOTION FOR REVIEW.

DEPARTMENT OF THE INTERIOR.

RECEIVED

MAR. 8 1906.

Enc. No. 1 of No. 2727.

Indian Territory Division.

BEFORE THE HONORABLE SECRETARY OF THE INTERIOR,
WASHINGTON, D. C.

In the matter of the application of Mrs. Bumgarner and her children, for enrollment as citizens of the Choctaw Nation of the Indian territory.

M O T I O N .

Comes now Mrs. Lou Bumgarner, in her own behalf, and on behalf of her children, and moves for review of the decision of the Honorable Secretary of the Interior, rendered under date of February 10, 1906, served by the Commissioner to the Five Civilized Tribes, and alleges as grounds for said motion the following:

FIRST: That said decision is based upon a report from the Commissioner to the Five Civilized Tribes in which it is stated "That while the name of the claimants are found upon the 1896 census roll of the nation, it is noted opposite their names: 'enrollment without authority of law'; that it does not appear from the records of your office that application was ever made by or on behalf of these persons for enrollment as citizens of the Choctaw Nation prior to December 25, 1902.

"It is alleged in the petition that Mrs. Bumgarner is a citizen of said nation, and has resided in the nation since 1880. She admits that she had no previous application, not knowing that any necessity existed therefor, and believed that her citizenship was complete."

That under this statement, the action of February 10th was erroneous and improperly applied the law in the admitted facts shown in the case.

SECOND: It is alleged in the petition filed December 1, 1905, that this woman and her children are in fact Indians. That they were enrolled as Indians, upon the 1896 census roll, and they were recognized as Indians by the people of the Nation, and by the National authorities.

THIRD: It is not shown that she had any knowledge of any such endorsement as is referred to above upon any roll, or that the same was made with her consent, with her knowledge, or with notice to her.

FOURTH: It is not shown that such endorsement was made by any person who had authority so to do, nor is it known by her or her attorneys how the endorsement came into the possession of the Dawes Commission; whether it was made at the time of her enrollment, or how long thereafter; whether or not it was placed thereon by some person maliciously, or simply the prank of some school boy, and, in the absence of any proof or showing in relation thereto, the action of the Honorable Secretary is erroneous and unjust, and this petition is entitled under the showing made to full consideration, and to a hearing upon her rights, unless other facts are shown in connection therewith.

FIFTH: That the Nation was served with her petition; has filed no answer or denial in this case, and for the purpose of consideration of this motion, they should be taken as true.

SIXTH: That if she was duly enrolled as stated in her petition, and as admitted in the report of the Dawes Commission for further enrollment.

SEVENTH: That the law as laid down in the opinion of the Assistant Attorney General, in the case of William O. Thompson et al, under date of March 3, 1906, governs in the case

at bar, and that the same is now, and was at the rendition of said opinion unreserved, and of binding force and effect upon the Commissioner to the Five Civilized Tribes, the Indian Territory Division of the Office of the Secretary of the Interior, and that this decision of February 10th is in contravention of principles laid down in said decision.

EIGHT: That the notation referred to by the Commissioner to the Five Civilized Tribes, namely; "Enrollment without authority of law." is a legal conclusion, presumably the work of some clerk of the Dawes Commission, or of some officer of the nation.

NINTH: That it asserts no facts upon which this applicant can be disenrolled.

TENTH: That its legal effect is not that of disenrolling her children.

Eleventh: That to give it the legal effect of a judgment of disenrollment, without a hearing, and without any proof as to the manner in which the entry was made, is a direct violation of all of the principles of the law properly applying to trials, hearings, judicial investigations, or judgments, and that for the above reasons said decision of February 10th, should be rescinded and revoked.

That the applicant should be enrolled, and the record corrected.

Respectfully submitted,

Chester Howe
Atty for Applicants.

UNITED STATES OF AMERICA)
DISTRICT OF COLUMBIA)

S.S.

Chester Howe, being first duly sworn, according to law states:

That he is an attorney for the applicant in the foregoing matter. That said motion is filed in good faith, and not for purpose of delay. That he served a true and correct copy thereof upon Messrs. Mansfield McMurray & Cornish, attorneys of record for the Choctaw-Chickasaw Nation, by sending the same by registered letter to their postoffice address, South McAlester, Indian Territory, registry receipt for which is hereunto attached.

Chester Howe.

Subscribed and sworn to before me this 8th day of March, 1906.

E. H. Parkins
Notary Public.

(SEAL)

(Registry Receipt Attached).

Memo.-226.

Muskogee, Indian Territory, October 15, 1906.

COPY.

Lou Bumgarner,

Duncan, Indian Territory.

Dear Madam:

Inclosed herewith you will find a copy of the decision of the Commissioner to the Five Civilized Tribes, rendered October 1, 1906, declining to receive or consider the application for the enrollment of Lou Bumgarner, John R. Bumgarner, Lee Bumgarner, William Bumgarner, Annie Bumgarner, Pink Bumgarner, and Bob Bumgarner, as citizens of the Choctaw Nation, and holding that the application for the enrollment of George A. Bumgarner, as a citizen by blood of the Choctaw Nation, was made within the time limited by the provisions of the Act of Congress approved April 26, 1906, and that the same should now be determined upon its merits.

The decision, with the record of proceedings in the case, is this day transmitted to the Secretary of the Interior for review. The final decision of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

Tama Tibbe

Commissioner.

Registered.

Incl. Memo.-226

Muskogee, Indian Territory, October 15, 1906

Chester Howe,

Washington Loan & Trust Building,
Washington, D.C.

Dear Sir:

Inclosed herewith you will find a copy of the decision of the Commissioner to the Five Civilized Tribes, rendered October 1, 1906, declining to receive or consider the application for the enrollment of Lou Bumgarner, John H. Bumgarner, Lee Bumgarner, William Bumgarner, Annie Bumgarner, Pink Bumgarner, and Bob Bumgarner, as citizens of the Choctaw Nation, and holding that the application for the enrollment of George A. Bumgarner as a citizen by blood of the Choctaw Nation, was made within the time limited by the provisions of the Act of Congress approved April 26, 1906, and that the same should now be determined upon its merits.

The decision, with the record of proceedings in the case, is this day transmitted to the Secretary of the Interior for review. The final decision of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

SIGNED

James D. King
Commissioner.

Registered.

Incl. Memo. 226.

Muskogee, Indian Territory, October 15, 1906.

Mansfield, McMurray & Cornish,
Attorneys for Choctaw and Chickasaw Nations,
McAlester, Indian Territory.

Gentlemen:

Inclosed herewith you will find a copy of the decision of the Commissioner to the Five Civilized Tribes, rendered October 1, 1906, declining to receive or consider the application for the enrollment of Lou Bumgarner, John H. Bumgarner, Lee Bumgarner, William Bumgarner, Annie Bumgarner, Pink Bumgarner, and Bob Bumgarner, as citizens of the Choctaw Nation, and holding that the application for the enrollment of George A. Bumgarner, as a citizen by blood of the Choctaw Nation, was made within the time limited by the provisions of the Act of Congress approved April 26, 1906, and that the same should now be determined upon its merits.

The decision, with the record of proceedings in the case, is this day transmitted to the Secretary of the Interior for review. The final decision of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

SIGNED

James D. Kirby
Commissioner.

Incl. Memo.-226.

Muskogee, Indian Territory, October 15, 1906.

The Honorable,

The Secretary of the Interior.

Sir:

December 6, 1906 (I.T.D. 11327-1906), the Secretary of the Interior referred to this office for report, a petition of Chester Howe, Attorney at Law of Washington, D. C., in the matter of the claim of Mrs. Lou Bumgarner and her children to enrollment as citizens of the Choctaw Nation.

January 6, 1906, a report was made in this matter recommending that Mr. Howe be advised that inasmuch as no application was made to the Commission to the Five Civilized Tribes by or on behalf of Mrs. Bumgarner and her children for enrollment as citizens of the Choctaw Nation, prior to December 25, 1902, there was no authority for the reception of original applications for their enrollment.

February 10, 1906 (I.T.D. 2040-1906), the Department concurred in this recommendation. April 17, 1906 (I.T.D. 2727-1906), this office was advised by the Department that a motion for review had been filed in the Choctaw enrollment case of Mrs. Lou Bumgarner, and on April 30, 1906, the motion for review was transmitted to this office with instructions that the case be readjudicated in accordance with the provisions of the Act of April 26, 1906.

Chester Vowe, attorney for the applicants, and Mansfield, McMurray & Cornish, attorneys for the Choctaw and Chickasaw Nations, were accordingly notified on May 21, 1906, that the Commissioner to the Five Civilized Tribes, would at his office in Muskogee, Indian Territory, Monday, June 18, 1906, at one o'clock, P. M., hear the testimony of witnesses in support of the application. June 18, 1906, a hearing was had in this matter.

I now have the honor to transmit herewith my decision of October 1, 1906, declining to receive the application for the enrollment of Lou Bumgarner, John H. Bumgarner, Lee Bumgarner, William Bumgarner, Annie Bumgarner, Pink Bumgarner and Rob Bumgarner, as citizens of the Choctaw Nation, and holding that application was made for the enrollment of George A. Bumgarner, as a citizen by blood of the Choctaw Nation, within the time limited by the provisions of the Act of Congress approved April 26, 1906, and that the case should be determined upon its merits.

Respectfully,

SIGNED *Tame Dixey*
Commissioner.

Incl. Memo.-226.

Through the
Commissioner of Indian Affairs.

D.O.M.

J.W.H.

J.W.H

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

W.C.P.
F.W.L.

Address only
The Secretary of the Interior.

March 15, 1909.

The Commissioner to the Five Civilized Tribes,
Muskogee, Oklahoma,

Sir:

Enclosed herewith for report, to be rendered through the Indian Office, is a letter dated February 15, 1909, from W. S. Field, attorney-at-law, of this city, relative to the enrollment of George W. and James Baumgarner.

In reporting in the matter, please follow the suggestions contained in departmental letter of February 25, 1909, relative to Rebecca K. Armstrong and others. Attention is also directed to departmental letter of March 1, 1909, wherein reference is made to one George A. Baumgarner, who may possibly be the person referred to in Mr. Field's letter.

You are authorized to take appropriate action to protect the property interests of the members of the Baumgarner family, including Mrs. Lou Baumgarner, if it is not now too late or otherwise impossible for you to do so.

Very respectfully,

Frank Pierce

First Assistant Secretary.

(1 encl)

Walter S. Field
Attorney at Law
Room 925, Colorado Building
Washington, D. C.

February 15, 1909.

The Honorable,
The Secretary of the Interior,
Washington, D. C.

Sir:

In relation to the alleged dejection of George W. Baumgarner enrolled as a Choctaw Indian in Oklahoma, permit me to say that the proceedings taken have probably been against Mrs. Lou Baumgarner, the widow of either George W. Baumgarner or James Baumgarner. One is the father and the other the son. I do not know which is which. The father died after enrollment and both were, I am informed, stricken from the rolls on March 3, 1907. They undoubtedly should be restored to the rolls under the principle announced in the Goldsby-Allison case.

The widow was holding a homestead near Duncan, Oklahoma, and from this she was dejected, the neighbors say, in a very heartless manner. If her former husband is restored to the rolls, it would seem that her possession ought to be restored

Respectfully,

W. S. Field.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

--:O:--

In the matter of the alleged application for the enrollment of
Lou Bumgarner et al., as citizens of the Choctaw Nation.

--: D E C I S I O N :--

On December 6, 1905, the Department forwarded to this office for report and recommendation a petition, filed with the Department on December 1, 1905, praying that Lou Bumgarner, her minor children, John H., Lee, William, Annie, Pink and Bob Bumgarner, and her stepson, George A. Bumgarner, be enrolled as citizens of the Choctaw Nation.

On January 8, 1906, this office reported that, while the names of the claimants are found upon the 1896 Choctaw Census Roll, it is noted opposite their names "Enrolled without authority of law;" that it does not appear from the records of this office that application was ever made by or on behalf of the applicants herein for enrollment as citizens of the Choctaw Nation prior to December 25, 1902, and recommended that the applicants and their attorneys be advised that there was no authority for the reception of original applications for enrollment of citizens of the Choctaw and Chickasaw Nations.

The Department, on February 10, 1906 (I.T.D. 2040-1906), concurred in the recommendation of this office and denied said petition.

The Department, on April 17, 1906 (I.T.D. 2727-1906), notified this office that a motion for review had been filed with the Department in the Choctaw enrollment case of Mrs. Lou Bumgarner et al., and on April 30, 1906 (I.T.D. 2040-2727-1906), the same was forwarded to this office with directions that the same be adjudicated in accordance with the provisions of the Act of Congress approved April 26, 1906 (Public No. 129).

On May 31, 1906, this office advised Chester Howe, of Washington, D. C., attorney for the applicants, and Mansfield, McMurray & Cornish, attorneys for the Choctaw and Chickasaw Nations, of the action of the Department, and notified them that the Commissioner to the Five Civilized Tribes, would, at his office in Muskogee, Indian Territory, on Monday, June 18, 1906, at one o'clock P. M., hear the testimony of such witnesses as might be introduced in the matter of said application.

On June 18, 1906, proceedings were had in the matter of said application pursuant to the notices above mentioned.

Lou Bumgarner, on said date testified that she had never personally, prior to said date, made application, to the Commissioner or the Commissioner to the Five Civilized Tribes, for enrollment, nor had she addressed any communication to this office or the Department relative thereto prior to December 1, 1905.

Upon examination of the records in the possession of this office it does not appear that any application of any nature whatsoever has ever been made for the enrollment of any of the applicants herein, with the exception of George A. Bumgarner, as citizens of the Choctaw Nation, prior to December 1, 1905.

Relative to the latter it appears from the records of the Commission to the Five Civilized Tribes that on September 8, 1896, in the case entitled "Sidney Bumgarner et al., and Lewis N. Hyten vs Choctaw Nation" (1896 Choctaw Citizenship Docket Case number 620), original application was made to said Commission, under the provisions of the Act of Congress approved June 10, 1896 (29 Stats., 321), for the admission of George A. Bumgarner (as George Bumgoner), as a citizen by blood of the Choctaw Nation, and that on December 2, 1896, said Commission rendered its decision therein denying said application, from which decision no appeal was taken.

Inasmuch as it appears from the records in charge of the Commissioner to the Five Civilized Tribes that no application was ever made for the enrollment of Lou Bumgarner, John H. Bumgarner, Lee Bumgarner, William Bumgarner, Annie Bumgarner, Pink Bumgarner and Bob Bumgarner as citizens of the Choctaw Nation prior to December 1, 1905, I am of the opinion that under the provisions of the Act of Congress approved April 26, 1906 (Public No. 129), I am without authority to receive or consider any application for the enrollment of said applicants and I, therefore, decline to receive the same.

I am further of the opinion that the application made to the Commission to the Five Civilized Tribes on September 8, 1896, for the admission of George A. Bumgarner as a citizen by blood of the Choctaw Nation should be considered as a sufficient application for his enrollment as such, made within the time limited by the provisions of the Act of Congress approved April 26, 1906 (Public No. 129), and that the same should now be determined upon its merits and it is so ordered.

Tams Bixby,
Commissioner.

Muskogee, Indian Territory.

Oct. 1, 1906.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of
George A. Bumgarner as a citizen by blood of the Choctaw Nation.

D E C I S I O N.

It appears from the record herein that application was duly made for the enrollment of George A. Bumgarner as a citizen by blood of the Choctaw Nation, within the time limited by the provisions of the Act of Congress approved April 26, 1906 (Public No. 129).

The record in this case shows that the applicant was born about the year 1882, and is the son of J. W. Bumgarner, a white man, and Mary Miller, a Choctaw by blood, whose sister, Eina Lindsey, appears as number 15361 upon a list prepared by the Commission to the Five Civilized Tribes, under the provisions of the Act of Congress approved July 1, 1902 (32 Stats., 641), of persons entitled to enrollment as citizens by blood of the Choctaw Nation, and approved by the Secretary of the Interior May 9, 1904; and that the applicant was a resident in good faith of Indian Territory on June 28, 1898.

Upon an examination of the tribal rolls of the Choctaw Nation in the possession of this office, it appears that the applicant is identified upon the 1896 Choctaw Census Roll opposite number 1683, and opposite his name appears the notation, "Enrolled without authority of law."

It further appears from the records of the Commission to the Five Civilized Tribes that on September 8, 1896, in the case entitled "Sidney Bumgarner, et al., and Lewis W. Hyten vs. Choctaw Nation" (1896 Choctaw Citizenship Docket, Case No. 620), original application was made to said Commission, under the provisions of the Act of Congress approved June 10, 1896 (29 Stats., 321), for the admission of George A. Bumgarner (as George Bumgoner) as a citizen by blood of the Choctaw Nation; and that on December 2, 1896, said Commission rendered its decision therein denying said application, from which decision no appeal was taken.

I am of the opinion that following the ruling of the Department in the case of Wiley Adams (I.T.D. 4398-1903), the decision of the Commission to the Five Civilized Tribes rendered December 2, 1896, denying the application of the applicant herein for admission to citizenship in the Choctaw Nation as a citizen by blood thereof, was without authority of law, and of no force and effect upon the status of said applicant as a citizen by blood of the Choctaw Nation.

I am, therefore, of the opinion that George A. Bumgarner should be enrolled as a citizen by blood of the Choctaw Nation, under the provisions of the Acts of Congress approved June 28, 1898 (30 Stats., 495) and July 1, 1902 (32 Stats., 641), and it is so ordered.

Muskegee, Indian Territory,


Commissioner.

OCT 15 1906

Memo.-226

COPY

Muskogee, Indian Territory, October 14, 1906.

George A. Bumgarner,
Menden, Indian Territory.

Dear Sir:

Inclosed herewith you will find a copy of the decision of the Commissioner to the Five Civilized Tribes, rendered October 16, 1906, granting the application for your enrollment as a citizen by blood of the Choctaw Nation.

The attorneys for the Choctaw and Chickasaw Nations, have been furnished a copy of this decision and have been allowed fifteen days from the date of this notice within which to file protest against your enrollment. If at the expiration of that time no protest has been filed, the name of George A. Bumgarner will be placed upon the final roll of citizens by blood of the Choctaw Nation, to be submitted to the Secretary of the Interior for his approval.

Respectfully,

SIGNED
Tamie Bixby
Commissioner.

Registered.

Incl. Memo.-226.

Memo.-226.

Muskogee, Indian Territory, October 18, 1906.

Chester Howe,

Washington Loan & Trust Building,
Washington, D. C.

Dear Sir:

You are hereby notified that the Commissioner to the Five Civilized Tribes, on October 18, 1906, rendered his decision granting the application for the enrollment of George A. Bumgarner as a citizen by blood of the Choctaw Nation.

The attorneys for the Choctaw and Chickasaw Nations have been furnished a copy of the decision and have been allowed fifteen days from the date of this notice within which to file protest against his enrollment. If at the expiration of that time no protest has been filed, the name of George A. Bumgarner will be placed upon the final roll of citizens by blood of the Choctaw Nation, to be submitted to the Secretary of the Interior for his approval.

Respectfully,

Registered.

SIGNED

Tamm
Commissioner.

COPY.

Muskogee Indian Territory, October 15, 1906.

Mansfield, McMurray & Cornish,
Attorneys for Choctaw and Chickasaw Nations,
McAlester, Indian Territory.

Gentlemen:

Inclosed herewith you will find a copy of the decision of the Commissioner to the Five Civilized Tribes, rendered October 15, 1906, granting the application for the enrollment of George A. Bumgarner, as a citizen by blood of the Choctaw Nation.

You are hereby advised that you will be allowed fifteen days from the date of this notice within which to file protest against his enrollment. If at the expiration of that time no protest has been filed, the name of George A. Bumgarner will be placed upon the final roll of citizens by blood of the Choctaw Nation, to be submitted to the Secretary of the Interior for his approval.

Respectfully,

James G. Smith
Commissioner.

Registered.

Incl. Memo.-226.

COPY

DEPARTMENT OF THE INTERIOR
WASHINGTON

GR

LLB

I.T.D. 3128-1902.
17440-1905.

May 12, 1906.

URS

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

In view of your decision of October 2, 1905, granting the application of Samuel Hickman (7-D-953), for his enrollment as an intermarried citizen of the Choctaw Nation, the record whereof was transmitted with your letter of March 7, 1906, the motion for a reopening and readjudication of the application of Thomas Ashford, for his enrollment as an intermarried citizen of the Choctaw Nation, is hereby granted. Departmental decision of May 16, 1902 (I.T.D. 3128), affirming the decision of the Commission of April 9, 1902, denying the application of Thomas Ashford is hereby vacated.

The cases of Thomas Ashford and Samuel Hickman appear analogous. Samuel Hickman, whose name appears opposite No. 1514 upon the approved rolls of the Choctaw Nation, was married in 1869, in Sebastian County, Arkansas, to Margaret Hickman, a recognized and enrolled citizen of the Choctaw Nation, and resided with her continuously in said nation since his marriage. Applicant's name appeared (whether properly or not was not determined) upon the 1885 and 1896 census rolls of Sugar Leaf County, Choctaw Nation, and permits were issued for renters under him.

You admitted Samuel Hickman, while Thomas Ashford, who was also married in 1869, in Polk County, Arkansas, to a Choctaw woman named Arrington, with whom he resided continuously in said nation since his marriage until her death, was denied by the Commission. The Commission found that he "had never resided in the Territory," but there is no evidence in the record upon which to base such a finding, and the evidence submitted upon motion for a reopening shows that immediately after marriage he returned to the Choctaw Nation, where he resided with his wife until her death. His name does not appear upon the tribal rolls of the Choctaw Nation, but if his marriage met the requirements of section 28 of the treaty of 1866, it would be equivalent to his tribal enrollment.

You are requested to readjudicate the case of Thomas Ashford after full hearing had upon the merits, at which applicant should be heard.

The record in both cases are returned through the Indian Office, to be considered together.

Respectfully,

(Signed) Jesse E. Wilson,

Assistant Secretary.

7-6043.

Muskogee, Indian Territory, November 8, 1906.

George A. Bumgarner,
Garner, Texas.

Dear Sir:

Receipt is hereby acknowledged of your letter of November 1, asking if protest has been filed against your enrollment.

In reply you are advised that no protest has been filed by the attorneys for the Choctaw and Chickasaw Nations against your enrollment, and your name will be placed upon the next schedule of citizens by blood of the Choctaw Nation, to be prepared for forwarding to the Secretary of the Interior.

Respectfully,

Commissioner.

7-6043

Muskogee, Indian Territory, February 12, 1907.

G. A. Bumgarner,
Garner, Texas.

Dear Sir:

Receipt is hereby acknowledged of your letter of February 5, 1907, stating that you received notice that your name would be placed upon a schedule to be forwarded to the Secretary of the Interior but you have heard nothing more from it, and you ask relative to your case.

In reply to your letter you are advised that the name of George A. Bumgarner has been placed upon a schedule of citizens by blood of the Choctaw Nation which has been forwarded to the Secretary of the Interior but this office has not yet been notified of Departmental action thereon. You will be notified when your enrollment is approved by the Department.

Respectfully,

Commissioner.

D. 339-1909.

Muskogee, Oklahoma, April 15, 1909.

Subject:

Reporting on Departmental
letter relative to case
of Geo. W. and James
Baumgarner.

The Honorable,

The Secretary of the Interior,

Sir:

Receipt is hereby acknowledged of Departmental letter of March 15, 1909, inclosing communication of W. S. Field, an attorney at law, Washington, D. C., wherein he states that George W. Baumgarner and James Baumgarner fall within the principles of the opinion in the Goldsby and Allison cases, and asks that they be restored to the roll. He also refers to "defectment" proceedings against Mrs. Lou Baumgarner, the widow of George W. Baumgarner or James Baumgarner, and requests that she be protected in the possession of her property.

The Department, in transmitting this communication, requests a report as to both George W. and James Baumgarner and directs that, if not now too late or otherwise impossible to do so, the property interests of the members of the Baumgarner

Secretary 2

family be protected.

Reference is also made to Departmental letter of March 1, 1909 (File 5-51) and to George A. Bungarner named therein, who may be one of the Baungarners referred to by Mr. Field.

Reporting in this matter I have the honor to advise that it does not appear from the records of this office that any persons by the names of George W. and James Baungarner were applicants for enrollment as citizens of the Choctaw Nation or that any persons by these names were ever enrolled by the Choctaw tribal authorities upon the tribal rolls in the possession of this office.

It appears that Lou Bungarner presented an application for the enrollment of herself and seven children, John H., Bungarner, Lee Bungarner, William Bungarner, Annie Bungarner, Pink Bungarner, Bob Bungarner and George A. Bungarner, as citizens of the Choctaw Nation and the record in this case discloses the following facts:

December 6, 1905 the Department forwarded to this office for report and recommendation a petition filed December 1, 1905, praying that Lou Bungarner, her minor children, John H., Lee, William Annie, Pink and Bob Bungarner and her step-son, George A. Bungarner, be enrolled as citizens of the Choctaw Nation.

January 8, 1906, this office reported that, while the

Secretary 3

names of the claimants were found upon the 1896 Choctaw Census Roll, there was a notation opposite their names "Enrolled without authority of law"; that it did not appear from the records of this office that application had been made by or on behalf of these applicants for enrollment as citizens of the Choctaw Nation prior to December 25, 1902. The office then recommended that the applicants and their attorney be advised that there was no authority for the reception of original applications for enrollment of citizens of the Choctaw and Chickasaw Nations.

February 16, 1906 (I T D 2040-1906) the Department concurred in the recommendation of this office and the petition was denied.

April 17, 1906 (I T D 2727-1906) the Department notified this office that a motion for review of this case had been filed and April 30, 1906 (I T D 2040, 2727-1906) the same was forwarded this office with instructions to adjudicate the matter in accordance with the provisions of the Act of Congress approved April 26, 1906 (34 Stat., 137).

May 31, 1906, the parties in interest in this case were notified that the Commissioner would, at his office in Muskogee, Indian Territory on June 18, 1906, hear such testimony as might be introduced in support of the contention of the

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Secretary 4

claimants, and proceedings were had on that date in accordance with such notice.

June 26, 1906 (I T D 7525-1906) the Department referred to its letter of April 30, 1906, and inclosed a petition of the applicants, Lou Bungarner and her children, for a further and more complete hearing in their case and requested an immediate report and recommendation.

July 5, 1906, this office reported fully as to the petition transmitted with Departmental letter of June 26, 1906, and advised that the case was under consideration and a formal decision would be promulgated and forwarded to the Department in the regular course of business.

From the testimony of Lou Bungarner it appeared that no application had been made for the enrollment of herself and her family prior to December 1, 1905, with the exception of George A. Bungarner for whom original application had been made for citizenship in the Choctaw Nation under the Act of Congress approved June 10, 1896 (29 Stat., 321).

As to George A. Bungarner it appeared that on September 8, 1898, in the case entitled Sidney Bungarner et al. and Lewis H. Hyten versus the Choctaw Nation, 1896 Choctaw Citizenship Case Number 620, original application was made to the Commission to the Five Civilized Tribes under the Act of

Secretary 5

Congress approved June 10, 1896, for the admission of George A. Bungarner (as George Bungoner) as a citizen by blood of the Choctaw Nation and on December 2, 1896 said Commission denied this application, from which decision no appeal was taken.

Inasmuch as it appeared from the records of the office that no application had been made for the enrollment of Lou Bungarner, John H. Bungarner, Lee Bungarner, William Bungarner, Annie Bungarner, Pink Bungarner and Bob Bungarner as citizens of the Choctaw Nation prior to December 1, 1905, the Commissioner to the Five Civilized Tribes, October 1, 1906, held that he was without authority to receive or consider any application for the enrollment of said applicants, and therefore declined to receive the same.

He further held, on the same date, that the application made to the Commission to the Five Civilized Tribes on September 8, 1896, should be considered as a sufficient application for the enrollment of George A. Bungarner as a citizen of the Choctaw Nation, made within the time provided by the Act of Congress approved April 26, 1906, and that the same should be determined upon its merits.

October 15, 1906, the record as to Mrs. Lou Bungarner and her children, John H., Lee, William, Annie, Pink and Bob Bungarner, together with the decision of the Commissioner of October 1, 1906, was transmitted to the Department.

Secretary 6...

October 30, 1906 (I T D 19234-1906) the Department called the attention of this office to its report of July 6, 1906, relative to the application made on behalf of Mrs. Lou Baumgarner for the enrollment of herself and children as citizens of the Choctaw Nation, and requested that early action be taken thereon and the record transmitted to the Department.

In this connection a report was requested as to whether the records of this office showed that application was made by John W. Baumgarner, either in December, 1896, or January, 1897, on behalf of his wife, Mrs. Lou Baumgarner and his children for enrollment as citizens of the Choctaw Nation.

November 9, 1906, report was made to the Department advising that the record in this case was transmitted to the Department October 15, 1906, and further advised that it did not appear that any application had been made on behalf of these persons other than as set up in the decision of October 1, 1906.

January 17, 1907 (I T D 284-1907) the Department requested copies of the testimony taken in the case of Sidney Baumgarner, et al. under the Act of Congress approved June 10, 1896. February 6, 1907 the Department was informed that no testimony was taken in the case of Sidney Baumgarner, et al. under the Act of Congress of June 10, 1896, but copies of the

Secretary 7

petition and affidavits which were filed in support of the application of Sidney Bumgarner, et al. for citizenship in the Choctaw Nation under the Act of Congress approved June 10, 1906, were transmitted for the consideration of the Department.

September 27, 1906 (Land 57978-1906) the Indian Office forwarded office letter of July 5, 1906, and January 3, 1907 (Land 92011-1906) the Indian Office transmitted the communication of this office dated October 15, 1906, and recommended that the decision of the Commissioner to the Five Civilized Tribes of October 1, 1906, declining to receive the application for the enrollment of Lou Bumgarner and her children, John H., Lee, William, Annie, Pink and Bob Bumgarner, as citizens of the Choctaw Nation, and holding that application had been made for the enrollment of George A. Bumgarner within the time provided by the Act of Congress approved April 26, 1906, be affirmed by the Department.

February 28, 1907 (I T D 11327-1906, 2040, 19234, 22866-1906, 284, 2936-1907) the Secretary of the Interior, in conformity with the opinion of the Attorney General of the United States, of February 19, 1907, in the consolidated case of William C. Thompson, et al. affirmed the decision of the Commissioner to the Five Civilized Tribes of October 1, 1906,

Secretary 8

in the matter of the application of Lou Bumgarner et al. for enrollment as citizens of the Choctaw Nation.

It further appears from the records of this office that on October 15, 1906, a decision was rendered granting the application for the enrollment of George A. Bumgarner as a citizen by blood of the Choctaw Nation under the ruling of the Department in the case of Wiley Adams (I T D 4398-1903). Notice of this action was forwarded the applicant, his attorney of record and the attorneys for the Choctaw and Chickasaw Nations. ✓

January 19, 1907, a schedule of citizens by blood of the Choctaw Nation, Numbers 16102 to 16113, inclusive, was forwarded the Department, which contained the name of George A. Bumgarner at number 16112 threecen. The original record in this case, except the decision as to George A. Bumgarner, was transmitted to the Department October 15, 1906, and the decision of the Commissioner to the Five Civilized Tribes of October 15, 1906, enrolling this applicant, is inclosed herewith, for the consideration of the Department, in connection with the record in the case of Lou Bumgarner, et al.

March 4, 1907, the Secretary of the Interior disapproved the schedule containing the name of George A. Bumgarner, in accordance with the opinion of the Attorney General of the L

Secretary 9

United States of February 19, 1909, in the cases of William C. Thompson, et al. and Loula West, et al.

The records of this office do not show that any of these applicants ever had a favorable decision of the Department in the matter of their application for enrollment as citizens of the Choctaw Nation.

I have the honor further to advise that it is believed that this is the family referred to in Departmental letter of March 15, 1909, although this office has been unable to identify either George W. Bungarner or James Bungarner upon its records as having been applicants for enrollment. It appears from the record that Lou Bungarner was the wife of John H. Bungarner and that George A. Bungarner was the child of John H. Bungarner by a wife to whom he was married prior to his marriage to Lou Bungarner, while Mr. Field states in his letter that George W. and James Bungarner are father and son and that Mrs. Lou Bungarner is the widow of one of them, but he does not know which is which, and this statement of fact is not borne out by the record.

Inasmuch as none of these persons was ever on an approved roll no allotments were made to them, and it does not appear that any claim has been made by them to lands in the Choctaw

Secretary 10

and Chickasaw Nations with the exception of two contests which were instituted December 26, 1905, by Lou Baumgarner, and which were dismissed by the Commissioner because the name of the contestant was not found as an applicant for enrollment in the Choctaw or Chickasaw Nations. Patents to this land have now been recorded and delivered to the allottees and it is not known what steps could be taken by this office at this time to protect whatever rights the members of this family have in the land of the Choctaw-Chickasaw country.

The communication of W. S. Field inclosed with Departmental letter of March 15, 1909, is herewith returned.

Respectfully,

Commissioner.

Through the Commissioner
of Indian Affairs.

Choctaw 6043.

AB

Muskogee, Oklahoma, September 2, 1909.

Mr. Walter S. Field,
Attorney at Law, Colorado Building,
Washington, D. C.

Sir:

Referring to your communication of February 15, 1909, addressed to the Secretary of the Interior, relative to the enrollment case of Lou Bumgarner, et al., you are informed that the Department, under date of August 25, 1909, advised this office that it was of the opinion that the case of Lou Bumgarner, et al., was not analogous to that of John E. Goldsby and did not come within the principles announced by the Supreme Court of the United States in its decision of November 30, 1908, in that case, and that no action would be taken looking to the enrollment of the applicants in the above mentioned case.

Respectfully,

(VR)

Commissioner.

COPY

Lulagest, et al.

DEPARTMENT OF JUSTICE.

WASHINGTON.

February 19, 1907.

The Secretary of the Interior.

Sir :

I have the honor to communicate to you my opinion in certain Choctaw Indian citizenship cases, the first two submitted by your letter of May 29, 1906, and the others by the direction of the President under date of January 19, 1907.

1. The first case is that of Myrtle Randolph and her brother W. J. Thompson, in regard to which you say :

Myrtle Randolph and W. J. Thompson are children of Giles Thompson, white, intermarried in the Choctaw Nation in Mississippi prior to the treaty of September 27, 1830 (7 Stat., 333), and was one of the parties named by supplementary article II (ib. 340), as entitled to a section and a half, reserved to him from the ceded lands, to be so selected as "to include their present residence and improvement." His first and second wives were Choctaws. His name appears on page 64, volume 7, American State Papers (Public Lands), as a beneficiary of Article XIX of the treaty of September 27, 1830, and on page 28, volume 1 of the record in suit of the Choctaw Nation v. United States, Court of Claims. He was registered under the treaty as citizen of the Choctaw Nation, Mushulatubbee's District, and with his family was transported under the treaty as Choctaws at expense of the United States, from Mississippi to the Choctaw Nation, west, prior to October 24, 1833, when he petitioned the President, from Doakesville, near the Red River, in the southern part of the Choctaw Nation, to approve sale of his Mississippi lands to James Gay, of Mississippi, and for issue of patent therefor (copy A enclosed). In the Choctaw Nation, west, in Indian Territory, in 1863, in accordance to Choctaw law, he married a white woman, citizen of the United States, of whom the applicants were born. He was living October 19, 1865, and was paid by the Choctaw Nation for beeves furnished June 1865. (Copy of Act of Council of October 19, 1865, is enclosed, B). He continued to live

in the Nation, and was recognized as a citizen, until his death, aged seventy-six years, and his estate was administered in the Choctaw Courts as that of an Indian and within their jurisdiction. The applicants--his children--were born in the Choctaw Nation, were admitted to and attended the Choctaw schools as Choctaws, and in all respects enjoyed and were accorded the privileges of native born Choctaws. The applicants were enrolled by Choctaw Committee on Citizenship in 1892, as Choctaw citizens. The Department is not yet advised whether they are borne on any other of the Choctaw rolls. They settled and improved tribal lands, as the father before had done in Mississippi, as Choctaws, erected homes, and were never ousted or objected to or regarded as intruders.

September 8, 1896, these applicants and others applied to the Commission to the Five Civilized Tribes for enrollment under the Act of June 10, 1896 (29 Stat., 321, 339), and December 7, 1896, were denied. Applicants appealed to the United States Court, Southern District, Indian Territory, which, January 18, 1898, reversed the Commission, and admitted the applicants. From this judgment the Nation appealed and the judgment was affirmed (reported as *Stephens v. Cherokee Nation and Choctaw Nation v. Robinson*, 174 U.S., 445, foot-note page 469, case No. 587; same v. *Randolph et al.*). Subsequently, under the act of July 1, 1902 (32 Stat., 641, 646-9), the matter was brought by appeal of the nations to the Choctaw-Chickasaw Citizenship Court, which, November 29, 1904, denied the application--copy of opinion wherein and in *Wall v. Choctaw Nation et al.*, and in *E. H. Bounds v. Choctaw and Chickasaw Nations*, whereon both were founded are enclosed (C,D,E.).

The validity and finality of the Citizenship Court are therefore a vital feature of this case. In regard to its judgment you say in your letter :

Bearing upon the validity of this judgment, your attention is called to the fact that the act of June 10, 1896 gave no power to the Commission to the Five Civilized Tribes to purge the tribal rolls, which were by the act confirmed. Power to purge the rolls was first conferred on the Commission by the Act of June 7, 1897 (30 Stat., 84), and further by Section 21, act of June 28, 1898 (30 Stat., 495, 502). Wherefore this Department holds that no jurisdiction was given the Commission, or to the Courts on appeal therefrom, to exclude persons having tribal recognition and borne on the tribal rolls, but that such persons, notwithstanding prior adverse action by the Commission, or the courts, are entitled to enrollment under the act of 1898 and supplementary acts,

unless their inscription on the tribal rolls was procured by fraud or was without authority of law. Such has been the rule of this Department since decision in the case of Wiley Adams May 21, 1903, discussed and concurred in by the Assistant Attorney-General, Interior Department (opinions of March 24, 1905, in cases of Benjamin J. Vaughn and Mary Elizabeth Martin. In Vaughn's case counsel for the nations acceded to it as the proper rule.

To determine the validity and finality of the judgment of the Citizenship Court, as well as other questions arising in these cases, it is necessary to consider carefully the entire legislation of the Congress on this subject.

The act of June 10, 1896 (29 Stat. 321, 339), directed the Commission to the Five Civilized Tribes in the Indian Territory to continue the exercise of the authority theretofore conferred upon them to negotiate with such tribes for the extinguishment of the tribal title to their lands, by the cession of the same or a part thereof to the United States, or their allotment in severalty to the members of such tribes, with a view to the ultimate creation of a State or States embracing such lands.

That act also provided:

That said commission is further authorized and directed to proceed at once to hear and determine the application of all persons who may apply to them for citizenship in any of said nations, and after such hearing they shall determine the right of such applicant to be so admitted and enrolled; Provided, however, That such application shall be made to such Commissioners within three months after the passage of this Act. The said Commission shall decide all such applications within ninety days after the same shall be made. That in determining all such applications said commission shall respect all laws of the several nations or tribes, not inconsistent with the laws of the United States, and all

treaties with either of said nations or tribes, and shall give due force and effect to the rolls, usages, and customs of each of said nations or tribes. And provided, further, That the rolls of citizenship of the several tribes as now existing are hereby confirmed, and any person who shall claim to be entitled to be added to said rolls as a citizen of either of said tribes and whose right thereto has either been denied or not acted upon, or any citizen who may within three months from and after the passage of this Act desire such citizenship, may apply to the legally constituted court or committee designated by the several tribes for such citizenship, and such court or committee shall determine such application within thirty days from the date thereof.

In the performance of such duties said commission shall have power and authority to administer oaths, to issue process for and compel the attendance of witnesses, and to send for persons and papers, and all depositions and affidavits and other evidence in any form whatsoever heretofore taken where the witnesses giving such testimony are dead or now residing beyond the limits of said Territory, and to use every fair and reasonable means within their reach for the purpose of determining the rights of persons claiming such citizenship, or to protect any of said nations from fraud or wrong, and the rolls so prepared by them shall be hereafter held and considered to be the true and correct rolls of persons entitled to the rights of citizenship in said several tribes: Provided, That if the tribe, or any person, be aggrieved with the decision of the tribal authorities or the commission provided for in this Act, it or he may appeal from such decision to the United States district court; Provided, however, That the appeal shall be taken within sixty days, and the judgment of the court shall be final.

That the said commission, after the expiration of six months, shall cause a complete roll of citizenship of each of said nations to be made up from their records, and add thereto the names of citizens whose right may be conferred under this Act, and said rolls shall be, and are hereby made rolls of citizenship of said nations or tribes, subject, however, to the determination of the United States courts, as provided herein.

The commission is hereby required to file the lists of members as they finally approve them with the Commissioner of Indian Affairs to remain there for use as the final judgment of the duly constituted authorities.

The act of June 7, 1897 (30 Stat. 62, 84) contained this provision:

That said commission shall continue to exercise all authority heretofore conferred on it by law to negotiate

with the Five Tribes, and any agreement made by it with any one of said tribes, when ratified, shall operate to suspend any provisions of this Act if in conflict therewith as to said nation; Provided, That the words "rolls of citizenship", as used in the act of June tenth, eighteen hundred and ninety-six, making appropriations for current and contingent expenses of the Indian Department and fulfilling treaty stipulations with various Indian Tribes for the fiscal year ending June thirtieth, Eighteen hundred and Ninety-seven, shall be construed to mean the last authenticated rolls of each tribe which have been approved by the council of the nation, and the descendants of those appearing on such rolls, and such additional names and their descendants as have been subsequently added, either by the council of such nation, the duly authorized Courts thereof, or the commission under the act of June tenth, eighteen hundred and ninety-six. And all other names appearing upon such rolls shall be open to investigation by such commission for a period of six months after the passage of this Act. And any name appearing on such rolls and not confirmed by the Act of June tenth, eighteen hundred and ninety-six, as herein construed, may be stricken therefrom by such commission where the party affected shall have ten days previous notice that said commission will investigate and determine the right of such party to remain upon such roll as a citizen of such nation; Provided, also, That any one whose name shall be stricken from the roll by such commission shall have the right of appeal, as provided in the Act of June tenth, eighteen hundred and ninety-six.

The act of June 28, 1898 (30 Stat. 495, 502-3), provided :

Sec. 21. That in making rolls of citizenship of the several tribes as required by law, the Commission to the Five Civilized Tribes is authorized and directed to take the roll of Cherokee citizens of eighteen hundred and eighty (not including freedmen) as the only roll intended to be confirmed by this and preceding acts of Congress, and to enroll all persons now living whose names are found on said roll, and all descendants born since the date of said roll to persons whose names are found thereon; and all persons who have been enrolled by the tribal authorities who have heretofore made permanent settlement in the Cherokee Nation whose parents, by reason of their Cherokee blood, have been lawfully admitted to citizenship by the tribal authorities, and who were minors when their parents were so admitted; and they shall investigate the right of all other persons whose

names are found on any other rolls and omit all such as may have been placed thereon by fraud or without authority of law, enrolling only such as may have lawful right thereto, and their descendants born since such rolls were made, with such inter-married white persons as may be entitled to citizenship under Cherokee laws.

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Said commission is authorized and directed to make correct rolls of the citizens by blood of all the other tribes, eliminating from the tribal rolls such names as may have been placed thereon by fraud or without authority of law, enrolling such only as may have lawful right thereto, and their descendants born since such rolls were made, with such intermarried white persons as may be entitled to Choctaw and Chickasaw citizenship under the treaties and the laws of said tribes.

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The rolls so made, when approved by the Secretary of the Interior, shall be final, and the persons whose names are found thereon, with their descendants thereafter born to them, with such persons as may intermarry according to tribal laws, shall alone constitute the several tribes which they represent.

The act of May 31, 1900 (31 Stat. 221, 236), provided:

That said commission shall continue to exercise all authority heretofore conferred upon it by law. But it shall not receive, consider, or make any record of any application of any person for enrollment as a member of any tribe in the Indian Territory who has not been a recognized citizen thereof, and duly and lawfully enrolled or admitted as such, and its refusal of such application shall be final when approved by the Secretary of the Interior.

The act of March 3, 1901 (31 Stat., 1058, 1077), contained this provision:

The rolls made by the Commission to the Five Civilized Tribes, when approved by the Secretary of the Interior, shall be final, and the persons whose names are found thereon shall alone constitute the several tribes which they represent; and the Secretary of the Interior is authorized and directed to fix a time by agreement with said tribes or either of them for closing said rolls, but upon failure or refusal of said tribes or any of them to agree thereto, then the Secretary of the Interior shall fix a time for closing said rolls; after which no name shall be added thereto.

The Secretary of the Interior -

7.

The act of July 1, 1902 (32 Stat. 641) ratified an agreement made by the Commission to the Five Civilized Tribes with the Commission representing the Choctaw and Chickasaw Tribes. This agreement was subsequently ratified by those two nations as required therein. In regard to rolls of citizenship it provided:

27. The rolls of the Choctaw and Chickasaw citizens and Choctaw and Chickasaw freedmen shall be made by the Commission to the Five Civilized Tribes, in strict compliance with the act of Congress approved June 28, 1898 (30 Stat., 495), and the act of Congress approved May 31, 1900 (31 Stat., 221), except as herein otherwise provided: Provided, That no person claiming right to enrollment and allotment and distribution of tribal property, by virtue of a judgment of the United States court in the Indian Territory under the act of June 10, 1896 (29 Stats., 321), and which right is contested by legal proceedings instituted under the provisions of this agreement, shall be enrolled or receive allotment of lands or distribution of tribal property until his right thereto has been finally determined.

28. The names of all persons living on the date of the final ratification of this agreement entitled to be enrolled as provided in section 27 hereof shall be placed upon the rolls made by said Commission; and no child born thereafter to a citizen or freedman and no person intermarried thereafter to a citizen shall be entitled to enrollment or to participate in the distribution of the tribal property of the Choctaws and Chickasaws.

29. No person whose name appears upon the rolls made by the Commission to the Five Civilized Tribes as a citizen or freedman of any other tribe shall be enrolled as a citizen or freedman of the Choctaw or Chickasaw nations.

30. For the purpose of expediting the enrollment of the Choctaw and Chickasaw citizens and Choctaw and Chickasaw freedmen, the said Commission shall, from time to time, and as early as practicable, forward to the Secretary of the Interior lists upon which shall be placed the names of those persons found by the Commission to be entitled to enrollment. The lists thus prepared, when approved by the Secretary of the Interior, shall constitute a part and parcel of the final roll of citizens of the Choctaw and Chickasaw tribes and of

Choctaw and Chickasaw freedmen, upon which allotment of land and distribution of other tribal property shall be made as herein provided. Lists shall be made up and forwarded when contests of whatever character shall have been determined, and when there shall have been submitted to and approved by the Secretary of the Interior lists embracing names of all those lawfully entitled to enrollment, the rolls shall be deemed complete. The rolls so prepared shall be made in quintuplicate, one to be deposited with the Secretary of the Interior, one with the Commissioner of Indian Affairs, one with the principal chief of the Choctaw Nation, one with the governor of the Chickasaw Nation, and one to remain with the Commission to the Five Civilized Tribes.

31. It being claimed and insisted by the Choctaw and Chickasaw nations that the United States courts in the Indian Territory acting under the Act of Congress approved June 10, 1896, have admitted persons to citizenship or to enrollment as such citizens in the Choctaw and Chickasaw nations, respectively, without notice of the proceedings in such courts being given to each of said nations; and it being insisted by said nations that, in such proceedings, notice to each of said nations was indispensable, and it being claimed and insisted by said nations that the proceedings in the United States courts in the Indian Territory, under the said Act of June 10, 1896, should have been confined to a review of the action of the Commission to the Five Civilized Tribes, upon the papers and evidence submitted to such commission, and should not have extended to a trial de novo of the question of citizenship; and it being desirable to finally determine these questions, the two nations, jointly, or either of said nations acting separately and making the other a party defendant, may, within ninety days after this agreement becomes effective, by a bill in equity filed in the Choctaw and Chickasaw citizenship court hereinafter named, seek the annulment and vacation of all such decisions by said courts. Ten persons so admitted to citizenship or enrollment by said courts, with notice to one but not to both of said nations, shall be made defendants to said suit as representatives of the entire class of persons similarly situated, the number of such persons being too numerous to require all of them to be made individual parties to the suit; but any person so situated may, upon his application, be made a party defendant to the suit. Notice of the institution of said suit shall be personally served upon the chief executive of the defendant nation, if either nation be made a party defendant as aforesaid, and upon each of said ten representative defendants,

and shall also be published for a period of four weeks in at least two weedy newspapers having general circulation in the Choctaw and Chickasaw Nations. Such notice shall set forth the nature and prayer of the bill, with the time for answering the same, which shall not be less than thirty days after the last publication. Said suit shall be determined at the earliest practicable time, shall be confined to a final determination of the questions of law here named, and shall be without prejudice to the determination of any charge or claim that the admission of such persons to citizenship or enrollment by said United States courts in the Indian Territory was wrongfully obtained as provided in the next section. In the event said citizenship judgments or decisions are annulled or vacated in the test suit hereinbefore authorized, because of either or both of the irregularities claimed and insisted upon by said nations as aforesaid, then the files, papers, and proceedings in any citizenship case in which the judgment or decision is so annulled or vacated, shall, upon written application therefor, made within ninety days thereafter by any party thereto, who is thus deprived of a favorable judgment upon his claimed citizenship, be transferred and certified to said citizenship court by the court having custody and control of such files, papers and proceedings, and upon the filing in such citizenship court of the files, papers and proceedings in any such citizenship case, accompanied by due proof that notice in writing of the transfer and certification thereof has been given to the chief executive officer of each of said nations, said citizenship case shall be docketed in said citizenship court, and such further proceedings shall be had therein in that court as ought to have been had in the court to which the same was taken on appeal from the Commission to the Five Civilized Tribes, and as if no judgment or decision had been rendered therein.

32. Said citizenship court shall also have appellate jurisdiction over all judgments of the courts in Indian Territory rendered under said Act of Congress of June tenth, eighteen hundred and ninety six, admitting persons to citizenship or to enrollment as citizens in either of said nations. The right of appeal may be exercised by said nations jointly or by either of them acting separately at any time within six months after this agreement is finally ratified. In the exercise of such appellate jurisdiction said citizenship court shall be authorized to consider, review, and revise all such judgments, both as to findings of fact and conclusions of

law, and may, whenever in its judgment substantial justice will thereby be subserved, permit either party to any such appeal to take and present such further evidence as may be necessary to enable said court to determine the very right of the controversy. And said court shall have power to make all needful rules and regulations prescribing the manner of taking and conducting said appeals and of taking additional evidence therein. Such citizenship courts shall also have like appellate jurisdiction and authority over judgments rendered by such courts under the said act denying claims to citizenship or to enrollment as citizens in either of said nations. Such appeals shall be taken within the time hereinbefore specified and shall be taken, conducted and disposed of in the same manner as appeals by the said nations, save that notice of appeals by citizenship claimants shall be served upon the chief executive officer of both nations; Provided, That paragraphs thirty-one, thirty-two and thirty-three hereof shall go into effect immediately after the passage of this Act by Congress.

33. A court is hereby created to be known as the Choctaw and Chickasaw Citizenship Court, the existence of which shall terminate upon the final determination of the suits and proceedings named in the last two preceding sections, but in no event later than the thirty-first day of December, nineteen hundred and three. Said court shall have all authority and power necessary to the hearing and determination of the suits and proceedings so committed to its jurisdiction, including the authority to issue and enforce all requisite writs, process and orders, and to prescribe rules and regulations for the transaction of its business. It shall also have all the powers of a circuit court of the United States in compelling the production of books, papers and documents, the attendance of witnesses, and in punishing contempt. Except where herein otherwise expressly provided, the pleadings, practice and proceedings in said court shall conform, as near as may be, to the pleadings, practice and proceedings in equity causes in the Circuit Courts of the United States. The testimony shall be taken in court or before one of the judges, so far as practicable. Each judge shall be authorized to grant, in vacation or recess, interlocutory orders and to hear and dispose of interlocutory motions not affecting the substantial merits of the case. Said court shall have a chief judge and two associate judges, a clerk, a stenographer, who shall be deputy clerk, and a bailiff. The judges shall be appointed by the President, by and with the advice and consent of the Senate, and shall each receive a compensation

of five thousand dollars per annum, and his necessary and actual traveling and personal expenses while engaged in the performance of his duties. The clerk, stenographer, and bailiff shall be appointed by the judges, or a majority of them, and shall receive the following yearly compensation : Clerk, two thousand four hundred dollars; stenographer, twelve hundred dollars; bailiff, nine hundred dollars. The compensation of all these officers shall be paid by the United States in monthly installments. The moneys to pay said compensation are hereby appropriated, and there is also appropriated the sum of five thousand dollars, or so much thereof as may be necessary, to be expended under the direction of the Secretary of the Interior, to pay such contingent expenses of said court and its officers as to such Secretary may seem proper. Said court shall have a seal, shall sit at such place or places in the Choctaw and Chickasaw nations as the judges may designate, and shall hold public sessions, beginning the first Monday in each month, so far as may be practicable or necessary. Each judge and the clerk and deputy clerk shall be authorized to administer oaths. All writs and process issued by said court shall be served by the United States marshal for the district in which the service is to be had. The fees for serving process and the fees of witnesses shall be paid by the party at whose instance such process is issued or such witnesses are subpoenaed, and the rate or amount of such fees shall be the same as is allowed in civil causes in the circuit court of the United States for the western district of Arkansas. No fees shall be charged by the Clerk or other officers of said court. The clerk of the United States Court in Indian Territory, having custody and control of the files, papers, and proceedings in the original citizenship cases, shall receive a fee of two dollars and fifty cents for transferring and certifying to the citizenship court the files, papers, and proceedings in each case, without regard to the number of persons whose citizenship is involved therein, and said fee shall be paid by the person applying for such transfer and certification. The judgment of the citizenship court in any or all of the suits or proceedings so committed to its jurisdiction shall be final. All expenses necessary to the proper conduct, on behalf of the nations, of the suits and proceedings provided for in this and the two preceding sections shall be incurred under the direction of the executives of the two nations, and the Secretary of the Interior is hereby authorized, upon certificate of said executives, to pay such expenses as in his judgment are reasonable and necessary out of any of the joint funds of said nations in the Treasury of the United States.

It appears that the agreement in these paragraphs provides for the establishment of the Choctaw and Chickasaw Citizenship Court, and gives it jurisdiction of a test suit to annul and vacate the decisions of the United States courts in the Indian Territory admitting persons to citizenship and enrollment as citizens of the Choctaw and Chickasaw nations, respectively, on the ground of want of notice to both of said nations and because the United States courts tried such cases de novo, with a right in the event such judgments should be annulled because of either or both of the irregularities mentioned, on the part of any party thus deprived of a favorable judgment to remove his case to the Citizenship Court, where such further proceedings were to be had therein "as ought to have been had in the court to which the same was taken on appeal from the Commission to the Five Civilized Tribes, as if no judgment or decision had been rendered therein; and also "appellate jurisdiction over all judgments of the courts in Indian Territory, rendered under said act of Congress of June tenth, eighteen hundred and ninety-six, admitting persons to citizenship or to enrollment in either of said nations." In the exercise of such appellate jurisdiction the citizenship court was "authorized to consider, review, and revise all such judgments, both as to findings of fact and conclusions of law, and may, whenever in its judgment substantial justice will thereby be subserved, permit either party to any such appeal to take and pre-

sent such further evidence as may be necessary to enable said court to determine the very right of the controversy."

It will be noted that the agreement further provides (paragraph 33) that "the judgment of the citizenship court in any or all of the suits or proceedings so committed to its jurisdiction shall be final."

The agreement also contained this provision

34. During the ninety days first following the date of the final ratification of this agreement, the Commission to the Five Civilized Tribes may receive applications for enrollment only of persons whose names are on the tribal rolls, but who have not heretofore been enrolled by said Commission, commonly known as "delinquents", and such intermarried white persons as may have married recognized citizens of the Choctaw and Chickasaw Nations in accordance with the tribal laws, customs and usages on or before the date of the passage of this Act of Congress, and such infant children as may have been born to recognized and enrolled citizens on or before the date of the final ratification of this agreement; but the application of no person whomsoever for enrollment shall be received after the expiration of the said ninety days; Provided, That nothing in this section shall apply to any person or persons making application for enrollment as Mississippi Choctaws, for whom provision has herein otherwise been made.

By the Act of April 21, 1904 (33 Stat. 189,204), it was provided that the Commission to the Five Civilized Tribes should conclude its work and terminate on or before July 1, 1905, and cease to exist on that date, the powers theretofore conferred upon it being continued.

By the Act of March 3, 1905 (33 Stat. 1048,1060), it was provided "that the work of completing the unfinished business,

if any, of the Commission to the Five Civilized Tribes shall devolve upon the Secretary of the Interior, and that all the powers heretofore granted to the said Commission to the Five Civilized Tribes are hereby conferred upon the said Secretary on and after the first of July, nineteen hundred and five."

By the act of April 26, 1906 (34 Stat. 137), it was provided:

That after the approval of this Act no person shall be enrolled as a citizen or freedman of the Choctaw, Chickasaw, Cherokee, Creek, or Seminole tribes of Indians in the Indian Territory, except as herein otherwise provided, unless application for enrollment was made prior to December first, nineteen hundred and five, and the records in charge of the Commissioner to the Five Civilized Tribes shall be conclusive in evidence as to the fact of such application; and no motion to reopen or reconsider any citizenship case, in any of said tribes, shall be entertained unless filed with the Commissioner to the Five Civilized Tribes within sixty days after the date of the order or decision sought to be reconsidered except as to decisions made prior to the passage of this act, in which cases such motion shall be made within sixty days after the passage of this act. x x x

By that act the rolls of citizenship of the several tribes were required to be completed March 4, 1907.

After very carefully considering this legislation, in the light of the circumstances under which it was enacted, I am constrained to the conclusion that the Citizenship Court had jurisdiction of the cases now under consideration, and that its judgment therein is final.

By the act of June 10, 1896, the Commission to the Five Civilized Tribes was "authorized and directed to proceed at once

to hear and determine the application of all persons who may apply to them for citizenship in any of said nations." It is true that this act also confirmed the then existing rolls of the several tribes, but the question whether an applicant was, as matter of fact, already duly enrolled upon one of the rolls so confirmed constituted, in my opinion, an issue upon which the Commission was authorized and required to pass: the applicant may be fairly held to have waived by his application the conclusiveness of the confirmation of the rolls in his case.

Independently of any such waiver, I do not see how the proposition that the Commission did not have jurisdiction of the case of a person whose name was upon a tribal roll can be maintained, in the face of the provision of the act of June 10, 1896, that "in determining all such applications said Commission shall x x x give due force and effect to the rolls, usages and customs of each of said nations or tribes." I think that act left it to the Commission to determine whether or not the applicant was upon a roll which was confirmed, and evidently it did not so hold in these cases.

It is unnecessary, however, to determine what might have been the effect of an adverse judgment in the case of an applicant whose name was upon a roll so confirmed for such confirmation was certainly and very materially modified by the act of June 7, 1897, and apparently altogether withdrawn by the act of June 28, 1898. The act of June 7, 1897, provided that the words "rolls of citizenship" as used in the act of June 10, 1896, should be con-

strued to mean the "last authenticated rolls of each tribe which have been approved by the council of the nation". I am informed that there never was any such an authenticated roll of the Choctaw Tribe, either at the time of the passage of the act of June 10, 1896, or subsequently thereto. Moreover, by the act of June 28, 1898, it was provided that in making rolls of citizenship of the several tribes, the Commission should take the Cherokee roll of 1890 as the only roll intended to be confirmed by that and preceding acts of Congress: it seems to be clear from the further provisions of the Act that the Congress did not here refer to the Cherokee rolls only but had in mind those of all the Tribes. To my mind, however, the decisive consideration is that Congress, knowing there were certain cases of contested citizenship in the Choctaw and Chickasaw Nations, referred these cases, under carefully defined conditions, to the Citizenship Court and made the determination of that Court in those cases final. This provision of law repealed, as to cases in this category, any inconsistent provisions (if any there were) in the Act of 1896 or any other prior act. These cases were unquestionably within the terms of the law: the claimants had been admitted to citizenship by decisions of the United States courts, and it seems clear that, under the agreement with the Choctaw and Chickasaw Nations ratified by the act of July 1, 1902, it was intended that the Citizenship Court should have a revisory jurisdiction of judgments of the

United States courts in the Indian Territory in citizenship cases, irrespective of the grounds on which these suits had been entertained by the said courts. That agreement was made after the confirmation given to the tribal rolls had been qualified if not withdrawn, and, we must presume with a knowledge of the fact that the Commission, under the act of June 10, 1896, had exercised jurisdiction in the case of persons whose names appeared upon some of the rolls of the tribes. Its action seems to show that Congress did not intend to confirm any roll of the Choctaw and Chickasaw tribes, but, however that may be when, with a knowledge of all that had gone before, it created the Citizenship Court, this was done, in my opinion, with the evident purpose of giving it jurisdiction of all citizenship cases which had been decided by the United States courts for the Indian Territory on appeal from the judgments of the Commission. As neither Congress nor the Nations made any distinction in the act and agreement referred to as to the cases of persons whose names were on a tribal roll which might have been confirmed by the act of June 10, 1896, if Congress had not decided otherwise I do not think any other authority can make this distinction. Indeed, as I have suggested, the applicants themselves, having voluntarily submitted to the jurisdiction of the Commission, might be fairly held estopped to now deny it.

I understand that it is not contended, nor do I think it could be successfully maintained that any authority to review the

judgments of the Citizenship Court was intended to be conferred upon you by Congress when it made the rolls, as finally compiled, subject to your approval (see paragraph 30 of the agreement ratified by the act of July 1, 1902.) Neither do I think that the provision in the act of April 26, 1906, above quoted, as to enrolling persons and entertaining motions to reopen or reconsider citizenship cases, was intended to recognize or confer any such authority the purpose of that provision being simply to limit the time in which the authority previously conferred might be exercised. To hold thus would be to treat the later act as a repeal of so much of the former as expressly declared the judgments of the Citizenship Court to be final, which seems to me untenable.

This disposes of the cases of Myrtle Randolph and her brother W. J. Thompson: whatever their intrinsic merits, these claims have been finally decided adversely to the claimants by the judgment of the Citizenship Court.

2. The second case is that of Cyrus H. Kingsbury and Lucy E. Littlepage, in regard to whom you say:

Cyrus H. Kingsbury and Lucy E. Littlepage are children of John Parker-Kingsbury and wife, Hannah Mariah, white, affiliated by act of the Choctaw Council of November 15, 1854, which enacted:

That all rights, privileges and immunities of Choctaw citizens are hereby granted unto John Parker-Kingsbury and to his wife Hannah Mariah, and they shall enjoy all the benefits to which the citizens of this nation may hereafter be entitled, except in the participation of any sum of money which may now be due the nation under treaty stipulations heretofore made.

Both applicants were born in the Choctaw Nation and have always resided there as its recognized citizens. They are on the tribal Choctaw 1885 census roll, Atoka County Nos. 819, 821. September 7, 1896, they applied to the Commission to the Five Civilized Tribes under the act of June 10, 1896, were enrolled, and no appeal was taken. Cyrus H. Kingsbury is on the 1896 Choctaw census roll. Lucy H. Littlepage is on the partial roll of Choctaw citizens by blood, and her husband, Patrick H. Littlepage, on the roll of intermarried citizens-- both rolls approved by the Secretary of the Interior, October 21, 1904. Patent, signed and executed by the principal chief of the Choctaw Nation, conveying to Cyrus H. Kingsbury allotted tribal lands as a citizen by blood, is now before the Secretary of the Interior for approval, but is not yet approved, or delivered. No objection to occupation of tribal lands was ever made against either applicant as an intruder.

Paragraph 27 of the agreement with the Choctaw and Chickasaw Nations ratified by the act of July 1, 1902, provides that the rolls of Choctaw and Chickasaw citizens shall be made by the Commission to the Five Civilized Tribes "in strict compliance" with the acts of June 28, 1898, and May 31, 1900.

Section 21 of the act of June 28, 1898, after providing that in making rolls of citizenship of the several tribes the Commission shall take the roll of Cherokee citizens of 1880 as the only roll intended to be confirmed by that and preceding acts of Congress, and providing for the enrollment of the Cherokees, authorizes and directs the Commission "to make correct rolls of the citizens by blood of all the other tribes, eliminating from the tribal rolls such names as may have been placed thereon by fraud or without authority of law, enrolling such only as may have lawful right thereto, and their descendants born since such rolls were

made, with such intermarried white persons as may be entitled to Choctaw and Chickasaw citizenship under the treaties and the laws of said tribes."

It might be held that the only white person intended to be enrolled by this Act were such intermarried ones as were entitled to citizenship under the treaties and laws of the tribes, if it were not for the reference to the tribal rolls, on which, as appears from your statement as to these parties, there were undoubtedly the names of adopted whites. The only names which the Act declares shall be eliminated from the tribal rolls are those placed thereon by fraud or without authority of law, and it is not suggested that the names of these parties were open to either of those objections.

Light, it seems to me, is thrown on this matter by the Act of May 31, 1900, which was also directed to be strictly complied with in making the rolls of citizenship of these tribes. That act is plainly intended to be of a restrictive nature, yet a fair construction of it would seem to authorize the enrollment of these parties. It provides that the Commission shall continue to exercise all authority theretofore conferred upon it by law, "but it shall not receive, consider, or make any record of any application of any person for enrollment as a member of any tribe in the Indian Territory who has not been a recognized citizen thereof, and duly and lawfully enrolled or admitted as

such, and its refusal of any such application shall be final when approved by the Secretary of the Interior."

This act recognizes the authority of the Commission to receive, consider and record the application of a recognized citizen of any of the tribes referred to who has been duly and lawfully enrolled or admitted as such, its refusal of the application of any person not so qualified being made final when approved by the Secretary of the Interior.

These applicants appear to possess all of these qualifications. Your letter states that they were born and have always resided in the Choctaw Nation as its recognized citizens; that their names appear upon various tribal rolls, and that they were admitted by the Commission in 1896 as citizens, no appeal from the decision of the Commission being taken by the Nation. That they were duly and lawfully enrolled by the tribal authorities would seem to result from the fact that both of their parents had been adopted into the tribe, and the failure to contest the action of the Commission in admitting them would indicate that their citizenship rights were regarded as indisputable.

You say that you would not have doubt that these applicants, born to the allegiance of the Choctaw Nation, are entitled to be enrolled, but for the report of my predecessor to the President of February 24, 1906, in the case of persons without Indian blood,

and the order to you of February 27, 1906, that "in the President's judgment, without reference to the act of Congress, it is perfectly clear equity demands that the son of white parents, who has no Indian blood in his veins, even though one of these parents has been adopted into the tribe, should not be treated as an Indian".

The report of Mr. Moody and the order of the President thereon, had reference to the case of children of white persons, one of whom had previously acquired Indian citizenship by virtue of his marriage into the Choctaw tribe, but had afterwards, upon the death of his Indian spouse, married a white person. Mr. Moody was of opinion that the right of citizenship acquired by an inter-married white was a personal right, and could not be conferred upon children by such subsequent marriage, which is also the view taken by the Citizenship Court.

I see no reason to question the soundness of that conclusion, assuming that the matter is still open for consideration. It is expressly provided by the Choctaw act of November 9, 1875, providing for the intermarriage of whites with Choctaws, that a white person intermarrying into the tribe in pursuance of that act should forfeit his rights of citizenship acquired thereunder if upon the death of his Indian Spouse he married "a white man or woman, or person, as the case may be, having no rights of Choctaw citizenship by blood."

I am aware that it has been held by one of the United States Courts in the Indian Territory that this law is inconsistent with

the treaty of April 28, 1866, but with great respect for the said Court, I do not so consider it. That treaty provides:

Article 28. Every white person who, having married a Choctaw or Chickasaw, resides in the said Choctaw or Chickasaw Nation, or who has been adopted by the legislative authorities, is to be deemed a member of said nation and shall be subject to the laws of the Choctaws and Chickasaw Nations according to his domicile, and to prosecution and trial before their tribunals, and to punishment according to their laws in all respects as though he was a native Choctaw.

This article merely recognizes a pre-existing custom of the Choctaw and Chickasaw Nations as to the intermarriage and adoption of white persons, and cannot fairly be said to have been intended to prevent them from decitizenizing an intermarried person for good cause: and what better cause could there be than that the tie which bound him to the tribe, and because of which alone citizenship was granted, was broken?

An act of the Choctaw Nation, approved October 30, 1896, providing for the enrollment of Choctaw citizens, provided that "the Commission shall enroll as citizens all who come under any one of the following heads, and all such persons are hereby declared citizens of the Choctaw Nation:"

X X X X X X X X X X

V. All white men who have married Choctaw women by blood in strict conformity to the laws of the Choctaw Nation of 1875 regulating inter-marriage, or the Chickasaw law of 1876 regulating inter-marriage, and have not been divorced from same nor married any other than a Choctaw woman by blood since said marriage.

X X X X X X X X X X

VIII. All white women who have married Choctaws by blood legally and have not been divorced from them nor since married any other than a Choctaw by blood, a recognized citizen and resident of the Choctaw or Chickasaw Nation.

X X X X X X X X

That act further provided that "the Commissions are especially prohibited from enrolling as citizens any persons coming under the following heads:"

X X X X X X X

II. The Children of any marriage where neither the father nor mother are Choctaws by blood, though one or both of said childrens' parents may have enjoyed intermarried rights.

III. All persons who, though they had at one time entered married rights, afterwards married a person not a Choctaw by blood (being the father or mother of Choctaw children shall not save a person from this clause.)

X X X X C

VI. All white persons who have been admitted to citizenship with their wife or husband by the General Council and afterward the wife of husband, Choctaw by blood, dying, the surviving party, being a white person, has intermarried with a person not a Choctaw by blood.

X X X X X X X

It is clear that, at least since 1875, the Choctaw Nation never intended that a white person, intermarrying into the tribe, should have power to confer citizenship upon his children by a subsequent marriage to other than a citizen by blood. The informal opinion of Attorney General Moody unquestionably had reference to cases of this character.

The case of the present applicants is quite different from that just referred to. Here both parents were adopted into the tribe. It must have been contemplated that they might have

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children, and if so, what was to be their citizenship if not that of their parents?

The facts in the present case answer this inquiry. Your letter states that these applicants have always been recognized as citizens of the Choctaw Nation, that their names appear on the tribal census roll of 1885, as well as upon the rolls prepared in pursuance of the Choctaw act of October 30, 1896. It seems clear, therefore, irrespective of the action of the Commission in admitting them as citizens in pursuance of the authority granted to it by the act of June 10, 1896, that they are clearly entitled to be enrolled for allotment purposes.

3. The Case of Loula (or Lulu) West, et al.

It appears from the papers in this case that Loula West applied to the Commission to the Five Civilized Tribes, pursuant to the Act of June 10, 1896, for admission to citizenship in the Choctaw Nation, and was admitted as a citizen by blood; that the Choctaw Nation appealed to the United States court for the Central District of the Indian Territory, which affirmed the judgment of the Commission; that this judgment was annulled and vacated by the judgment of the Citizenship Court in the test case provided for by the Act of July 1, 1902, (32 Stat. 641, 647); and thereupon she removed her case to that court, which denied her application.

This case is similar to that of Myrtle Randolph and her brother W. J. Thompson, children of Giles Thompson, above referred

to, in that it involves the question of the finality of the judgment of the Citizenship Court, it being contended that the Commission in the first instance and the Citizenship Court ultimately on appeal had no jurisdiction of the case because at the time of her application to the Commission her name was upon a tribal roll.

For the reasons heretofore stated, I think this contention is not well founded, and that the Citizenship Court had jurisdiction of such cases, and its judgments therein were final.

4. The Case of William C. Thompson et al.

In this case the record shows that Thompson applied to the Commission to the Five Civilized Tribes, pursuant to the act of June 10, 1896, for the enrollment of himself, his wife, and children with the exception of a daughter Mary M. McNeese, who made a separate application for herself, her husband, a white man, and their children. The Commission denied Thompson's application, and also that of his daughter. No appeal was taken from these judgments, and it is contended, on behalf of the Nation, that under the act of June 10, 1896, they were final and conclusive against the right of these parties to be enrolled.

The claimants, however, rely upon the fact that their names appear upon the tribal roll prepared in pursuance of the Choctaw acts of September 18 and October 30, 1896.

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In my judgment, the action of the Commission, under the act of June 10, 1896, not having been appealed from, was final and conclusive against the right of these parties to be admitted to citizenship, and the Choctaw Nation, even if it attempted to do so, had no right thereafter to admit them. It will be observed that the act of June 10, 1896, provided that applications should be made to the Commission within three months after the passage of the act, and that the Commission should decide all such applications within ninety days after they were made; that the rolls of citizenship of the several tribes as then existing were confirmed, and "any person who shall claim to be entitled to be added to said rolls as a citizen of either of said tribes and whose right thereto has either been denied or not acted upon, or any citizen who may within three months after the passage of this Act desire such citizenship, may apply to the legally constituted court or committee designated by the several tribes for such citizenship, and such court or committee shall determine such application within thirty days from the date thereof:" and that "if the tribe, or any person be aggrieved with the decision of the tribal authorities or the Commission provided for in this Act, it or he may appeal from such decision to the United States District Court: Provided, however, That the appeal shall be taken within sixty days, and the judgment of the court shall be final.

As I read this Act, it authorized application to be made either to the Commission to the Five Civilized Tribes or the

"legally constituted court or committee" of such tribes, with a right of appeal by the party aggrieved by the decision of either to the United States court. Therefore, and in view also of the fact that the act contemplated contemporaneous action by the Commission and the tribal courts, I think it clear that the provision that "any person who shall claim to be entitled to be added to said rolls (the existing rolls of the tribe) as a citizen of either of said tribes whose right thereto has either been denied or not acted upon, "had reference to a previous denial or failure to act of the tribal authorities, and not to the subsequent action or non-action of the Commission, the tense of the verbs- "has either been denied or not acted upon", not "shall be denied or not acted upon"-indicating that past action or non-action was referred to. Prior to the passage of this act the Commission had no jurisdiction of these citizenship matters.

When, therefore, as here, the claimant had applied to the Commission to be admitted and enrolled, and his application denied, his only remedy, under the act in question, lay in an appeal to the United States court. It is true Thompson claims to have received no notice of the denial of his application by the Commission, but that is not a valid excuse.

But aside from this question of jurisdiction in the Choctaw Nation to admit persons to citizenship who had been denied by the Commission, it appears that the Nation never undertook to au-

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thorize the admission or enrollment of these parties, and that, in any aspect of the case, they were enrolled without authority of law and their names should, in pursuance of the mandate in the act of Congress of June 26, 1893, be eliminated from the tribal rolls.

The Choctaw Nation does not appear to have proceeded under the authority of the act of Congress of June 10, 1896, authorizing the establishment by the several tribes of a court or committee for the purpose of passing upon applications for citizenship as provided therein. It was not until September 18, 1896, ten days after the expiration of the period in which applications for citizenship were to be submitted to the "legally constituted court or committee" of the tribes under the act of June 10, 1896, that the Choctaw Council passed the act above referred to. That act provided for the appointment of census commissioners in each county, with authority "to enroll all recognized citizens of the Choctaw Nation by blood, intermarriage and adoption who are recognized as citizens of the Choctaw Nation under the treaties, constitution and law of the said nation." It further provided that "the rolls when completed by said commissioners shall be certified to by said commissioners and delivered to the Principal chief of the Choctaw Nation on or before the twentieth day of October, 1896, to be revised and approved by the next General Council of the Choctaw Nation."

It is manifest that this act conferred no power upon such commissioners to admit any person to citizenship, but only to enroll "recognized citizens." Yet in virtue thereof one of the county committees assumed to pass upon a petition prepared by Thompson's attorney, under date of August 1, 1896, and addressed to the General Council of the Choctaw Nation, "at its regular session October 1896," praying that "all rights, privileges and immunities of the Choctaw Nation" be granted to himself, his wife, family and certain other relatives," and they be enrolled with the legal citizenship of said Nation."

This petition does not appear ever to have been presented to the Choctaw Council or referred by any competent authority to the committee which assumed to pass upon it. Upon its back is the following endorsement:

William C. Thompson together with the names appearing on the face of the within application, lineal descendants of Margaret McCoy are hereby recognized and admitted to the citizenship of the Choctaw Nation or Tribe of Indians, by the legally constituted Choctaw Census Commission duly assembled at Kiowa, I. T. this the 8th day of October, 1896, upon the testimony of Henry Perkins, Mrs. Lavinia Franklin, they being enrolled Choctaw Indians by blood. The within names parties not being present were passed for further enrollment.

A. G. Folsom,
Secretary of Census Committee.

This was a manifest attempt to exercise an authority not delegated to the committee.

On October 30, 1896, the Choctaw Council, at its regular session, passed an act creating three commissions, one from each District, one member of each of which to be designated as "Chief"

Commissioner", "to make a complete roll of the citizens of the Choctaw Nation." By that act it was made the duty of said commissions "to examine the rolls made by the commissions under the act of September 18, 1896, and also to expunge from said rolls of September 18, 1896, the names of all persons whom they shall adjudge not to be citizens." It was further provided:

The Commission shall enroll as citizens all who come under any of the following heads, and all such persons are hereby declared citizens of the Choctaw Nation:

1. All Choctaws by blood born and raised in the Choctaw Nation.

11. All Choctaws by blood who have been admitted to citizenship by the General Council and now residents of the Nation.

x x x x x

It was provided that "at the expiration of the time allowed the commissions in each District, the Chief Commissioner shall meet at Tushka Homma at their earliest convenience and not later than the first Monday in December 1896, and shall revise the Rolls made by their respective District Commissions during the succeeding ten days after they meet". The Chief Commissioners were authorized to "enroll the name of any citizen who for any good cause failed to appear before the District Commissions". It was further provided that "the Roll as completed and signed by the Chief Commissioners, when approved by the Principal Chief, shall be the legal and authorized Roll of citizens of the Choctaw Nation".

These parties were enrolled by the revisory board, but that their enrollment was unauthorized is clear. The act just referred

to only authorized the enrollment of Choctaws by blood who were "born and raised" in the Choctaw Nation or had "been admitted to citizenship by the General Council." The applicants possessed neither of these qualifications. According to his own statement, William C. Thompson was not raised in the Choctaw Nation, having been taken to Mississippi shortly after his birth, and returning only once during his boyhood for about a year. It is further stated that he remained in Mississippi until the war, when he went to Texas, not returning again to the Choctaw Nation until 1887. He had never been "admitted to citizenship by the General Council". His wife and children could claim no greater rights than he possessed. The other applicants named in his petition were descendants of his brother, who was born in Mississippi and whose record appears to be otherwise about the same as William C. Thompson's.

Moreover, it appears from the opinion of the Assistant Attorney General for the Interior Department of March 24, 1905, in the case of Mary Elizabeth Martin, that on July 17, 1897, the Principal Chief of the Choctaw Nation advised the Commission to the Five Civilized Tribes that he had refused to approve the last revised roll made in accordance with the act of October 30, 1896, because he was satisfied there were some names thereon "that have been registered through fraud or misrepresentation." As such approval was necessary in order to make the roll so prepared "the

legal and authorized roll of citizens of the Choctaw Nation," it would seem that in no aspect of the case could these parties be said to be lawfully admitted and enrolled.

It further appears that these applicants, or some of them, including William C. Thompson, applied in 1900 to the Commission for the Five Civilized Tribes for identification as Mississippi Choctaws under the following provision of section 11 of the act of June 28, 1898:

Said Commission shall have authority to determine the identity of Choctaw Indians claiming rights in the Choctaw lands under article fourteen of the treaty between the United States and the Choctaw Nation concluded September twenty-seventy, eighteen hundred and thirty and to that end they may administer oaths, examine witnesses, and prepare all other acts necessary thereto and make report to the Secretary of the Interior.

Article 14 of the treaty of September 27, 1830, provided:

ARTICLE XIV. Each head of a family being desirous to remain and become a citizen of the States shall be permitted to do so, by signifying his intention to the Agent within six months from the ratification of this Treaty, and he or she shall thereupon be entitled to a reservation of one section of six hundred and forty acres of land, to be bounded by sectional lines of survey; in like manner shall be entitled to one half that quantity for each unmarried child which is living with him over ten years of age; and a quarter section to such child as may be under 10 years of age, to adjoin the location of the parent. If they reside upon said lands intending to become citizens of the States for five years after the ratification of this Treaty, in that case a grant in fee simple shall issue: said reservation shall include the present improvement of the head of the family, or a portion of it. Persons who claim under this article shall not lose the privilege of a Choctaw citizen, but if they ever remove are not to be entitled to any portion of the Choctaw annuity.

The only evidence adduced in any way tending to show a compliance with the terms of this article were statements to the ef-

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fect that William C. Thompson's grandfather applied for land under the treaty of 1830 but was refused by the Indian agent. Congress, however, by the acts of March 3, 1837, and August 23, 1842, (5 Stat. 180, 513), appointed Commissioners for the purpose of adjusting claims of this kind, and there was no evidence to the effect that the ancestors of the claimants had endeavored to comply with the provisions of those acts, or received patents or certificates for land as therein provided for. The Commission properly held, therefore, that it was impossible to identify the applicants as Mississippi Choctaws.

Upon the whole case, it seems to me clear that these applicants, and those claiming intermarried rights with them, should be denied enrollment.

The other cases consolidated with this are of a similar nature, and under the views above stated the parties referred to therein are, in my judgment, not entitled to be enrolled.

5 The Case of Richard B. Coleman et al.

The enrollment of the parties referred to in this case depends upon the effect to be given to the following act of the General Council of the Choctaw Nation passed November 8, 1889:

An Act to establish the citizenship of R. B. Coleman, his wife and their children.
Sec. 1. Be it enacted by the General Council of the Choctaw Nation Assembled, That Richard Benjamin Coleman, and their children as follows: Richard St. Clair, age 15 years, Ida Clay, age 13, Bennetta, age 11, Bettie Withers, age 9, Henry

Alen, age 6, Willie Norma Coleman, age 4 years, are hereby admitted to citizenship in the Choctaw Nation with its rights, privileges, and immunities, and that this act shall take effect and be in force from and after its passage.

It is contended that this act was procured by fraud and bribery, and that, therefore, the names of Coleman and his family should be eliminated from the tribal rolls upon which they appear, under the act of Congress of June 18, 1896, which provides:

Said Commission is authorized and directed to make correct rolls of citizens by blood of all the other tribes, eliminating from the tribal rolls such names as may have been placed thereon by fraud or without authority of law, enrolling such only as may have lawful right thereto x x x .

The Commission held that they had no authority to go behind the act of the Choctaw Council referred to, but in an informal opinion rendered you December 7, 1904, Acting Attorney General Day, after quoting the above provisions, said:

It appears to me the above quoted provisions of the statute impose upon the Commission to the Five Civilized Tribes the duty and gave it the power to determine whether any name appearing upon a tribal roll was placed there by fraud or without authority of law, and that the mere fact that such enrollment was by virtue of an act of the National Council is not sufficient to preclude an inquiry. An act of the Council should be treated with respect as prima facie valid and efficacious, and nothing done as the result thereof should be lightly set aside; but if it clearly appears that the act was procured by deliberate fraud and perjury I do not think that Congress intended that benefits thereunder should be enjoyed.

Mr. Day did not pass upon the facts of this case. Subsequently, the Assistant Attorney General for the Interior Department, upon a consideration of the record, held that it did not clearly appear therefrom that the act in question had been fraudu-

lently procured.

In my judgment the record in this case clearly shows deliberate fraud on the part of Richard B. Coleman in procuring the passage of the act admitting him to citizenship. It appears that Coleman came into the Choctaw Nation about 1880. In 1887 he made application to the citizenship committee of the Choctaw Council for admission as a citizen by blood, representing by himself and witnesses he brought before the committee that his father was a Choctaw boy named Frank Coleman, the son of a John Coleman and Chapponia, a full blood Choctaw, who had lived in Mississippi with his parents prior to the migration in 1830. The boy Frank it was testified, had been sent to Kentucky to school and nothing afterwards heard of him.

The testimony adduced on behalf of the Nation before the Commission to the Five Civilized Tribes shows that the father of Coleman was Francis S. Coleman, a son of a Francis Coleman who was born and raised in Orange County, Virginia, and was not a Choctaw. This testimony was given in the form of a deposition by Mrs. Harriet Henry, a sister of Francis S. Coleman, and R. L. Coleman a nephew, residing at Columbia, Missouri. The identity of Francis S. Coleman with the father of the applicant appears from the fact, testified to by the applicant as well as the two witnesses just referred to, that he married Ann Elizabeth Bedford, the daughter of John Bedford, in Kentucky, and the testimony of all parties that

Francis S. Coleman went to Denton, Texas, and died there. Although duly advised as to the intention of the attorneys for the Choctaw Nation to take this testimony, no effort was made by Coleman or his attorney to file cross interrogatories or in any way rebut, it, but they confined themselves to an endeavor to have the testimony stricken from the records as not having been taken in accordance with law. The authority of the Commission to take the testimony in this way is clear, under the act of June 28, 1898 (30 Stat. 495), which provides:

Said commission shall make such rolls descriptive of the persons thereon, so that they may be thereby identified, and it is authorized to take a census of each of said tribes, or to adopt any other means by them deemed necessary to enable them to make such rolls.

This testimony was further enforced by another deposition of said R. L. Coleman, taken by Commissioner Tans Bixby, in which R. L. Coleman stated further that he knew the applicant Richard B. Coleman, that he was his cousin. A motion was likewise made to strike this testimony from the record, because taken without notice to the applicant, but it was overruled by the Commission, who held that under the authority of the above act they could take such measures as they deemed necessary to satisfy themselves as to the justice of the applicant's claim. I do not think it is shown that they abused their discretion in this manner.

It appears that the application of Richard B. Coleman to be enrolled as a citizen by blood of the Nation, upon the grounds

above stated, was passed over by the citizenship committee of the Council in 1887; taken up again in 1888 and a bill of rejection passed by the committee or the Council; renewed at the session of 1889, and a bill of admission introduced into the House of Representatives which was rejected, and then a new bill introduced and enacted into the law above quoted.

I think it sufficiently appears from the testimony in this case, particularly that given by and on behalf of the applicant himself, that the Council in admitting him and his family to citizenship did so upon the strength of the testimony adduced by him before the Committee on Citizenship that he was a Choctaw by blood, descended as he represented. It is to be observed that he and his family all claim that he was admitted as a Choctaw by blood.

Some testimony was introduced for the purpose of showing that Coleman had bribed one Roebuck, the member of the Council who introduced the second bill, but the evidence on that point is not sufficient to establish the fact.

In October, 1898, the General Council of the Choctaw Nation passed an act repealing the act of November 3, 1869, admitting Coleman and his family to citizenship. This act was, however, disapproved by President McKinley, upon the recommendation of the Secretary of the Interior, under the authority of the act of Congress of June 23, 1898, which required the approval of the President to all acts of the Choctaw and Chickasaw Nations in any manner affecting the lands of the tribes.

Although this act was thus invalidated, it may fairly be taken to indicate the sense of the Nation at that time that Cole-

man was improperly admitted. The reason for its disapproval does not appear, but it might reasonably have been rejected on the ground that by the act of June 28, 1898, the work of making up the rolls of citizenship and eliminating therefrom those placed thereon by fraud was committed entirely to the Commission to the Five Civilized Tribes.

It is to be observed that Commissioner Bixby, who was the only Commissioner who considered this case on its merits, was "clearly of the opinion from such evidence as has been presented to this Commission that the evidence presented to and acted upon by the Citizenship Committee of the Choctaw General Council, which passed upon the petition of these applicants, and upon which evidence their admission to Choctaw Citizenship was based, was fraudulent, false and misleading."

In my opinion, these parties should be stricken from the rolls.

6. The Case of Ethel Pierson.

This case presents the question of your authority to enroll the children of Choctaw freedmen who were minors living March 4, 1906. The decision of this question turns upon the construction to be given to section 2 of the Act of April 26, 1906 (34 Stat. 137), as amended by the act of June 21, 1906 (34 Stat. 342). The act referred to originally provided:

Sec. 2. That for ninety days after approval hereof

applications shall be received for enrollment of children who were minors living March fourth, nineteen hundred and six, whose parents have been enrolled as members of the Choctaw, Chickasaw, Cherokee, or Creek tribes, or have applications for enrollment pending at the approval hereof, and for the purpose of enrollment under this section illegitimate children shall take the status of the mother, and allotments shall be made to children so enrolled. If any citizen of the Cherokee tribe shall fail to receive the full quantity of land to which he is entitled as an allotment, he shall be paid out of any of the funds of such tribe a sum equal to twice the appraised value of the amount of land thus deficient. The provisions of section nine of the Creek agreement ratified by Act approved March first, nineteen hundred and one, authorizing the use of funds of the Creek tribe for equalizing allotments, are hereby restored and reenacted, and after the expiration of nine months from the date of the original selection of an allotment of land in the Choctaw Chickasaw, Cherokee, Creek, or Seminole tribes, and after the expiration of six months from the passage of this Act as to allotments heretofore made, no contest shall be instituted against such allotment: Provided, That the rolls of the tribes affected by this Act shall be fully completed on or before the fourth day of March, nineteen hundred and seven, and the Secretary of the Interior shall have no jurisdiction to approve the enrollment of any person after said date: Provided further, That nothing herein shall be construed so as to hereafter permit any person to file an application for enrollment in any tribe where the date for filing application has been fixed by agreement between said tribe and the United States: Provided, That nothing herein shall apply to the intermarried whites in the Cherokee Nation, whose cases are now pending in the Supreme Court of the United States.

The amendatory act provided, (34 Stat. 341-2):

That section two of the Act entitled "An Act to provide for the final disposition of the affairs of the Five Civilized Tribes in the Indian Territory, and for other purposes," approved April twenty-sixty, nineteen hundred and six, be, and the same is hereby, amended by striking out thereof the words "Provided further, That nothing herein shall be construed so as to hereafter permit any person to file an application for enrollment in any tribe where the date for filing application has been fixed by agreement between said tribe and the United States: Provided further, That nothing herein shall apply to the intermarried whites in the Cherokee Nation whose cases are now pending in the Supreme Court of the United States." And insert in said Act in lieu of the mat-

ter repealed, the following: Provided further, That nothing herein shall be construed so as hereafter to permit any person to file an application for enrollment or to be entitled to enrollment in any of said tribes, except for minors the children of Indians by blood, or of freedmen members of said tribes, or of Mississippi Choctaws identified under the fourteenth article of the treaty of eighteen hundred and thirty, as herein otherwise provided, and the fact that the name of a person appears on the tribal roll of any of said tribes shall not be construed to be an application for enrollment.

In the agreement with the Choctaw and Chickasaw Nation ratified by the act of July 1, 1902 (32 Stat. 641), it was provided (paragraphs 1 and 3) that the words "member" or "members" and "citizen" or "citizens", "whenever used in this Agreement", shall be held to mean members or citizens of the Choctaw or Chickasaw tribe of Indians in Indian Territory, not including freedmen."

The Commissioner to the Five Civilized Tribes in passing upon this case held that, in view of the above definition, the act of April 26, 1906, as amended, was not intended to apply to the children of freedmen in the Choctaw and Chickasaw Nations, but only to those of the Cherokee and Creek Nations.

There would be some force in the argument that minors, the children of freedmen members of the Choctaw Nation were not included in the act of April 26, 1906, if it were not for the proviso substituted by the amendatory act of June 21, 1906. That proviso was, as the Commissioner said, "in the nature of a construction by Congress of the meaning intended to be conveyed by the section as originally enacted." It says, in so many words, that minors the children of freedmen members of said tribes (referring

to all of the tribes, which are separately named in the preceding part of section 5, among them the Choctaw and Chickasaw tribes) may be enrolled. This definition settles the doubt that otherwise might have arisen as to the children of freedmen members of said tribes, as well as the children of Mississippi Choctaws. If, therefore, the Choctaw freedmen are members of said nation, the right of their children to be enrolled cannot be questioned.

The Choctaw freedmen were adopted by an act of the General Council of the Nation approved May 21, 1863, entitled "An Act to adopt the freedmen of the Choctaw Nation", which provided (Report of Commissioner of Indian Affairs, 1864 p.XLV):

Whereas by the third and fourth articles of the treaty between the United States and the Choctaw and Chickasaw Nations, concluded April 26, 1866, provision was made for the adoption of laws, rules, and regulations necessary to give all persons of African descent resident in said nation at the date of the treaty of Fort Smith, September 13, 1866, and their descendants, formerly held in slavery among said nations, all the rights, privileges, and immunities, including the right of suffrage, of citizens of said nations, except in the annuities, moneys, and public domain claimed by or belonging to said nations respectively; and also to give to such persons who were residents as aforesaid, and their descendants, 40 acres each of the lands of said nations on the same terms as Choctaws and Chickasaws, to be selected on the survey of said lands; until which said freedmen shall be entitled to as much land as they may cultivate for the support of themselves and families; and

Whereas the Choctaw Nation adopted legislation in the form of a memorial to the United States Government in regard to adopting freedmen to be citizens of the Choctaw Nation, which was approved by the principal chief November 2, 1880, setting forth the status of said freedmen and the inability of the Choctaw Nation to prevail upon the Chickasaws to adopt any joint plan for adopting said freedmen, and notifying the United States Government of their willingness to accept said freedmen as citizens of the Choctaw Nation in accordance with the third and fourth articles of the treaty of 1866 as

a basis; and

Whereas a resolution was passed and approved November 5, 1880, authorizing the principal chief to submit the aforesaid proposition of the Choctaw Nation to adopt their freedmen to the United States Government; and

Whereas a resolution was passed and approved November 6, 1880, to provide for the registration of freedmen in the Choctaw Nation, authorizing the principal chief to appoint three competent persons in each district, citizens of the nation, whose duty it shall be to register all freedmen referred to in said third article of the treaty of 1866 who desire to become citizens of the nation in accordance with said treaty, and upon proper notification that the Government of the United States had acted favorable upon the proposition to adopt the freedmen as citizens, to issue his proclamation notifying all such freedmen as desire to become citizens of the Choctaw Nation to appear before said commissioner for identification and registration; and --

Whereas in the Indian appropriation act of Congress May 17, 1882, it is provided that either of said tribes may adopt and provide for the freedom in said tribe in accordance with said third article: Now, therefore,

Be it enacted by the general council of the Choctaw Nation, That all persons of African descent resident in the Choctaw Nation at the date of the treaty of Fort Smith, September 13, 1865, and their descendants, formerly held in slavery by the Choctaws or Chickasaws, are hereby declared to be entitled to, and invested with all the rights, privileges, and immunities, including the right of suffrage, of citizens of the Choctaw Nation, except in the annuities, moneys and the public domain of the nation.

Sec. 3. Be it further enacted, That all said persons are hereby declared to be entitled to forty acres each of the lands of the nation, to be selected and held by them under the same title and upon the same terms as the Choctaws.

It appears that this act was accepted by the Secretary of the Interior on behalf of the United States as a substantial compliance with the terms of the treaty of 1866, and the moneys authorized to be paid by that treaty upon a compliance therewith were turned over to the Nation.

The Secretary of the Interior -

44.

I am of opinion, therefore, that the Assistant Attorney General for the Interior Department was right in his conclusion that minors, the children of Choctaw freedmen living March 4, 1906, are entitled to be enrolled.

This disposes of the several cases submitted. The papers therein are herewith returned.

Respectfully,

Attorney General.

Choctaw 6044
Lulie Loring

Transferred from 7-D 609
11-1-06

6044

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment as a
citizen by intermarriage of the Choctaw Nation of

LULIE LORING.....7-D-609.

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES
Muskogee, I. T. January 17, 1901.

In the matter of the application for enrollment as an intermarried citizen of the Choctaw Nation of Lullie Loring. Lullie Loring being duly sworn by the Commission, testified as follows:

Examination by the Commission.

- Q What is your name? A Lullie Loring.
Q How old are you, Mrs. Loring? A Forty-five.
Q What is your post-office address? A At present - I have been living down near Krebs but I am broke up and not settled now since my husband left me, I have been working out. I have been cooking at Krebs at the Randolph hotel.
Q Is that your post-office address at present? A Yes sir.
Q Do you expect to stay there? A I don't know.
Q Have you any permanent post-office address? A That is as permanent as any.
Q How long have you lived in the Choctaw Nation? A For the last fifteen years. We lived in Skullyville County and in Bennington in Blue county and then moved back to Skullyville. He was of a roving disposition and since he left me three years ago --
Q You have lived in the Indian Territory continuously for the last fifteen years? A Only a little while at a time. I went out to Arkansas and then I went out to Oklahoma for two months.
Q Are you a white woman? A Yes sir.
Q You claim as an intermarried citizen of the Choctaw Nation?
A Yes sir.
Q What is your father's name? A Justice Shinn.
Q Is he living? A No sir, he's been dead ever since I was a child.
Q What is your mother's name? A Laura Davis before she was married. She's been dead ever since I was a small child.
Q They were both white people? A Yes sir.
Q Neither of them claim any Indian blood? A Well, my mother claimed some Indian blood.
Q What tribe did she claim to belong to? A Well the Choctaw.
Q Did you ever have any right as a Choctaw. A We never did have it proved up.
Q Why do you think your mother was a Choctaw? A She claimed that.
Q Were you ever enrolled as a Choctaw? A No sir.
Q Do you claim to have any Choctaw blood? A Well I don't know whether I have enough to claim Choctaw blood or not. My mother did n't show it much.
Q Did you ever make any claim as a Choctaw Indian by blood?
A I didn't claim it but I wish to be enrolled by intermarriage. My husband was Choctaw and Cherokee. His father was a Choctaw and his mother a Cherokee.
Q Is your name on any of the tribal rolls of the Choctaw Nation? A Why it ought to be. My husband said he put it on at Council.

Tribal roll of citizens of the Choctaw Nation in the possession of the Commission examined and the name of the applicant, Lullie Loring, does not appear thereon.

- Q Did you ever make application to the Choctaw authorities for citizenship? A No, I didn't in person. My husband said he had my name put down.

Q What is your husband's name? A William Harrison Loring.
Q How old is he? A I guess about 33 now.
Q Do you know where he lived? A Well, I don't because he run off with another woman three years ago.

The name of William H. Loring is found on Choctaw toll card, field No. 1321. His age is given as 31, and his post-office Wrennington. It is stated on said card that his father's name was William Loring, of Kiamitia County, Choctaw Nation and his mother, Mary Loring was a Cherokee.

Q You say your husband made application to the Choctaw authorities to have you enrolled as an intermarried citizen? A He said he did.

Q When was that? A Several years ago.

Q How many years ago? A It was Indian Council. It has been about - - it was when we lived out there close to Skullyville in the country. I had to stay at home and take care of things.

Q How long ago was that? A It must have been eight years ago.

Q Did they admit you? A He come back and said so. I have only got his word for it. We was very poor and somebody had to stay at home and take care of things and I staid at home and he went to Council and he come back and told me he had my name put down as a citizen.

Q Have you got any act admitting you to citizenship? A No sir.

Q Why weren't you enrolled in 1896? A Well I didn't go and have myself enrolled I guess is all the reason.

Q Why didn't you? Didn't you know the Choctaws were making a census in 1896? A Oh I went and took census. I was taken down at census. The census takers has been at my house and taken my name.

Q In 1896? A I guess about then. I don't remember the date.

Q Why didn't they put you on the roll? A I can't tell you. The census taker was at our house and took our names down.

Q Did he put your name down? A Yes sir put my name down and my husband's name down.

Q When did you marry William H. Loring? A August 7th, 1887

Q Where were you married to him? A In the country between Skullyville and Fort Smith.

Q Who were you married by? A Parson Shipley.

Q What year? A 1887.

Q Have you got your marriage certificate? A Well, I did have but we lived near the river and our things got washed away in the rise.

Q Was your marriage certificate recorded? A I don't know. whether it was or not. I didn't record it myself.

Q Did your husband? A I don't know.

Q Did you ever hear whether it was recorded or not? A He said it was.

Q Have you any evidence that you and William H. Loring were ever married? A Well I don't know what evidence it takes.

Q The best evidence is the marriage certificate? A Well I had my marriage certificate in my album in the trunk and it got washed away.

Q You say you don't know whether it was recorded or not?

A No sir.

Q Did any one see you married? A Several people were there when we were married.

Q Who were they? A Mr. Shipley's son was there. Sterling Shipley.

Q Was he a white man? A Yes sir. Mr. Smart a Cherokee. He

was there.

Q Any body else? A Several more, yes sir.

Q Are these people all living? A I don't know whether they are or not. I reckon they are. And two of the Robison boys were there.

Q You don't know whether these people are living or not? A I haven't seen them real lately. I suppose they are living. I haven't heard that they are dead.

Q How far do they live from here? A They lived close to Fort Smith the last I heard of them. When I knew them. I think Parson Shipley has moved into Fort Smith. He lived on Second Street in Fort Smith when I heard of him last.

Q When did you say you were married? A In 1887.

Q How long did you livewith him? A About eleven years.

Q Up until 1898? A Yes sir.

Q Why weren't you enrolled with him in 1896? A Well I will tell you he was careless about that. He didn't think the Dawes Commission would have any right and he wouldn't go. I tried to get him to go and I said 'Let's go and put our names down' and he said it wouldn't be any use and he wouldn't do it.

Q Did you and William H. Loring live together as man and wife from 1887 to 1898? A Yes sir.

Q Never had any trouble? A Oh we had trouble but we lived together.

Q Every body recognized you as his wife? A Yes sir.

Q When did you separate? A Well he got in with some cotton pickers down at Cameron. He went down there and got in with some people by the name of Collins from Arkansas, travellers and he went off with the woman.

Q That was in 1898? A I don't remember - yes sir, I guess it was about that time.

Q Had he always provided for you up to that time? A Well, are you acquainted with the Indians and know how they provide a great many of them? The women have to make the living a great many times and that is the way it was with us. He would work a day or two at a time. He lived with me and lived off my labor and means. He liked to loaf around a good deal. What work was done he worked around there but he was not much of a worker and it made times mighty hard for me.

Q During the ~~xxx~~ eleven years that you lived together as man and wife had there ever been any differences between you, had you ever separated? A We never separated. When he went away and left me he told me when he would be back and told me goodbye. Two or three days after he was gone he wrote me a letter an excuse why he didn't come home and I didn't know but what he would come back.

Q What time in 1898 was that? A The 27th day of September.

Q 1898? A Yes sir.

Q He went away and left you then? A That was the last time I ever saw him.

Q Have you ever heard from him since then? A That letter is all that he wrote back to me. He wrote it back from Wards Post Office.

Q Have you ever been divorced? A No sir.

Q Has he married? A No sir.

Q Have you married since then? A No sir, no marrying for me. I had too much trouble.

Q Did you ever have any children by him? A I had one but it was born before its time.

Q You have no children living? A No not by him. I have one I had by my first husband. I was a widow.

Q Your first husband was a white man? A Yes sir.

Myra Young, having been first duly sworn, upon her

Lullie Lerin 4

oath states that as stenographer to the Commission to the Five Civilized tribes she reported in full all proceedings had in the above entitled cause on the 17th day of January, 1901, and that the above and foregoing is a full, true and correct transcript of her stenographic notes of said proceedings on said date.

Myra Young.

Subscribed and sworn to before me this 17th day of January, 1901.

Chas. L. Emerson
Notary Public.

United States of America
Northern District of the
Indian Territory.

Ex parte: Julie Soring, applicant
for enrollment as a Citizen of the
Choctaw Nation.

The affiant L. E. Ayers
who being first duly sworn states
that he has been personally
acquainted with the said
Soring about thirteen years. That
he knew William H. Soring about
three years before he knew Mrs.
Julie Soring. Affiant states that
the said William H. Soring & the said
Julie Soring lived together as
husband & wife from the time
he first became acquainted
with said Julie & they both claimed
to be husband & wife & it was generally
understood in the community
where they lived near Fort
Smith in the Choctaw Nation
~~that they were husband & wife.~~
said William H. Soring worked
for affiant in his store in
Fort Smith Arkansas while
he & Julie Soring were thus
living together as man & wife
Affiant states that said

William H. Spring was a recognized
Choctaw Indian by blood.

(C. C. Hyatt)

Subscribed & Sworn to before
me this 17th day of January 1901.

John F. Faulds

Notary Public

My Com. expires May 28th 1904

The affiant - Thos. Marcum who
being duly sworn states that he is of
lawful age & a resident of Muscogee
I.T. That he resided about twenty
years in Fort Smith Arkansas.
That he has known Mrs. Julie Spring
for thirteen or fourteen years, that
he knew William Spring, that
said Julie & William H. Spring lived
together as man & wife near Fort-
Smith in the Choctaw Nation
& for several years since 1886
or 1887 they held themselves out
to the community in which they
lived & to the world as man & wife.
Affiant further states that it

was generally understood & known
in the community near Fort Smith
where Mrs Julie & William H Soring
lived that they were man & wife.

The said Julie Soring employed affiant
to defend William H Soring as her husband
on same criminal charges. Affiant
further states that William H Soring
was generally reputed to be a
Cherokee Indian by blood.

Affiant knew of said William H
Soring to have been in the employ
of b. l. Ayers & the said William
H after told affiant he was
her husband. Affiant states
that said Julie Soring was much
devoted to her said husband &
seemed to take great interest in
him & in his welfare.

Thos Marcum

Subscribed & Sworn to before
me this 17th Jan'y 1901
John F. Faulds
Notary Public

United States of America. Northern District, Ind. Ter.

The affiant George Remington, being duly sworn states on oath that he is acquainted with Mrs. Lullie Loring, and that he has known her since the year 1892, that he knew her in the Choctaw Nation near Ft. Smith. First he states, that he is also acquainted with her William H. Loring, who was the reputed husband of the said Lullie Loring, and that the said Lullie and William H. Loring were living together as man and wife and both claim to be man and wife, that is to say the said Lullie and William H. Loring each at different times claimed each other as man and wife and they lived together as such, and the affiant further states, that they held themselves up to the community in which they lived as man and wife and the understanding among the people generally in which they lived was that they were man and wife: affiant further states that he was the husband of the mother of said William H. Loring and that it was understood and never disputed that William H. Loring and Lullie were man and wife, as such lived together in same house and was so recognized by the community in which they lived.

Capt Geo H Remington

Subscribed and sworn to before me this the 18 day of Jan. 1901.

John F. Fauld
Notary Public
My Comm. expires May 28th 1904

State of Maryland, Baltimore City, to wit:

BE IT REMEMBERED.

1901

Testimony of the peace

Winnie Martin

Winnies Present at
The marriage of Lucie Shinn to William
McLoring, on the border of the lot of Shaw
nation near Fort Smith in the Indian
Territory in the year of 1888 on the 7th or 8th day
of August sworn before

J. Herbert J. Shinn, Jr.
Justice of the Peace

9

1875

1

1875

1875

CHAMPAIGN

7

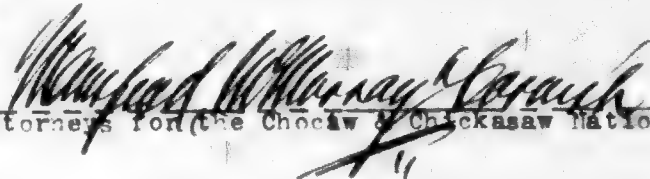
BEFORE THE COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of
Lulie Loring as a citizen by intermarriage of the Choctaw Nation,
Choctaw Field No. D-609.

- - - - -

We hereby request on behalf of the Choctaw and Chickasaw Nations, that final decision in this case be postponed until final decision by the Choctaw and Chickasaw Citizenship Court in the case of B. F. Thompson vs. Choctaw and Chickasaw Nations, No. 38 on the South McAlester Docket, in which the said court will decide the question of the validity of that portion of the intermarriage laws of the Choctaw Nation providing for the forfeiture of citizenship of white persons who separate from their Indian spouses, which question is involved in the case to which this communication refers.

This request is filed under authority granted by the Honorable Secretary of the Interior in his communication to the Commission to the Five Civilized Tribes upon the subject, dated November 18, 1903.


Attorneys for the Choctaw & Chickasaw Nations.

January 23, 1904.

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DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.
Muskegee, I. T., October 6, 1906.

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CHOCTAW D-609
- - - - -

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In the matter of the application for enrollment of Lulie Loring as a citizen by intermarriage of the Choctaw Nation.

- - - - -

Copy of notice served upon Mansfield, McMurray & Cornish, attorneys for the Choctaw and Chickasaw Nations, notifying them that on Saturday, October 6, 1906, at 9 o'clock a. m. the applicant would appear before this office for the purpose of introducing testimony tending to establish her right to enrollment, filed herewith.

APPEARANCES:

S. A. Apple, of Ardmore, I.T. appears for applicant.

No appearance on behalf of the Choctaw & Chickasaw Nations.

LULIE ISAACS, being sworn and examined, testified as follows:

- Q What is your name?
A Lulie Isaacs.
Q What was your name four years ago?
A Loring.
Q How old are you?
A I am 52 years old.
Q What is your postoffice?
A Bengal, I.T.
Q Do you claim right to enrollment as a citizen by intermarriage of the Choctaw Nation?
A Yes sir.
Q Through whom?
A I don't know what you mean.
Q Who were you married to?
A I was married to William Loring.
Q What was he?
A Choctaw.
Q By blood?
A Yes.
Q When were you married to William Loring?
A 1897 I believe; it was, as well as I can remember.
Q What month and day?
A 7th of August.
Q Where were you living at that time?
A I was living in the Choctaw Nation down near Ft. Smith.
Q What was your postoffice?

A Ft. Smith.
 Q Which side of the line did you live on?
 A This side of the line, in the Choctaw Nation.
 Q With whom were you making your home?
 A I was making my home with myself and Mr. Loring after I was married.
 Q Before you were married?
 A I was a widow living on a place.
 Q Renting the place?
 A Yes, I was living in a little house by myself.
 Q Where was Mr. Loring living at that time?
 A He came and lived with me. I kept a boarding house in Ft. Smith before I moved over there and he boarded with me in Ft. Smith. Then after I moved over there he came over there and we were back and forth in Ft. Smith and then we were married and remained over there.
 Q Where was Mr. Loring living at the time you married him?
 A I don't know, I couldn't tell you.
 Q Did he room at your place?
 A He roomed at my place when I was living in Ft. Smith.
 Q Where was Mr. Loring living when you married him?
 A I can't tell.
 Q Was he living in the Choctaw Nation or the state of Arkansas?
 A Yes, his home was in Bennington and then he went to Ft. Smith as a witness and then he came to my house and boarded.
 Q How long had you lived in the Choctaw Nation when you married Mr. Loring?
 A I don't remember exactly how long; I had been living there some time.
 Q About how long did you live there, as much as a year?
 A I guess it was over one year.
 Q Who married you?
 A Parson Shipley.
 Q Did you get a certificate of marriage?
 A Yes sir, he gave him a certificate of marriage.
 Q Was that certificate of marriage ever recorded?
 A I don't know whether it was or not. Mr. Loring took it and said he would take it to Skullyville and have it recorded, but he took it somewhere else he told me; he didn't record it in Skullyville, it was somewhere else.
 Q Have you that original certificate at this time?
 A No sir; my trunk and everything we had when we lived up in the bottoms got caught in an overflow and my trunk washed against a tree and the certificate and everything in it got washed away. That is the reason I didn't bring it then when I was here when I made my application. It was washed away.
 Q This Mr. Shipley a minister of the gospel?
 A Yes sir.
 Q Where was he located?
 A I don't know exactly; I think in the Territory.
 Q Is he living at this time?
 A I don't know; I haven't seen him in a good long while.
 Q He was a minister of what denomination?
 A He was a minister - I believe they called it the Holiness church, something kinder like that. I can't tell for certain.
 Q Did you get a license before you married Mr. Loring?
 A No sir, I had been married before and I never got no license

myself. My husband did that.

Q Did Mr. Loring get a license this time?

A No sir, we were married with witnesses in the way he said Indians were married.

Q Who were present when you were married?

A My daughter, Minnie Weeks; she afterwards married a man by the name of Martin.

Q Who else?

A Stirling Shipley and the Robinson boys - I don't remember their names - and Sam Smart. Just people my husband brought when he brought the minister. I didn't invite anybody.

Q Where is Mr. Smart living at this time?

A I can't tell you.

Q Where are the Robinson boys living?

A I don't remember.

Q Do you know where any of the parties are living?

A I didn't keep posted about anybody but my daughter.

Q Answer my question.

A I don't know about them. After Mr. Loring left it was so disagreeable to be questioned about him I moved away.

Q How long had you lived with Mr. Loring?

A About 11 years I think.

Q Didn't you state that you were married to him in 1897?

A Yes sir.

Q How could that have been 11 years?

A I must have made a mistake. It must have been in 1887. When I was here before I had all this on my mind. If I have made a mistake in dates now, it is because I am embarrassed.

Q You think it is 1887?

A Yes, it must have been 1887 - if you will look on the paper you can see. I don't want to say anything that is not the truth. I am not in good health now and I can't remember things.

Q At what place did you live with Mr. Loring?

A Well, I lived there where we were married, then we moved up in the bottoms close to Page's ferry and we lived there - but before that I didn't tell you exactly right. We moved down to Bennington and lived there a while.

Q Did you secure a divorce from Mr. Loring?

A No sir. I didn't because I heard he was dead.

Q Do you know if he is living at this time?

A I don't know.

Q From our record it appears that he was living in 1902, four years ago.

A Well, I thought he was dead until I came here to make this application and the Dawes Commission people is the ones told me he was living.

Q How old was Mr. Loring at the time you married him?

A He was 21; at least that is what he told me. His mother told me that too.

Q You were married before you married Mr. Loring?

A Yes sir; I was married twice before.

Q Either of your former husbands living?

A No sir; they died at home.

Q Were they both white men?

A Yes sir.

Q When did you leave Mr. Loring?

A I never left him; he left me at home sick.

Q After you separated, did you marry again?

A I didn't marry until last May. I had a hard time because I never married again.
 Q You are living at Bengal at the present time?
 A Yes sir.
 Q How long have you lived there?
 A Three years.
 Q Where did you live before you lived in Bengal?
 A Well, I lived at Howe the last place.
 Q How long did you live there at Howe?
 A I can't tell you exactly how long.
 Q About how long did you live at Howe?
 A Well, it was something over a year, I can't tell how much.
 Q Where did you live before you lived at Howe?
 A I lived some time over in Wilburton.
 Q I want to know just the place you lived at before you lived at Howe?
 A Wilburton.
 Q How long did you live there?
 A I don't remember.
 Q Approximately?
 A Not a year.
 Q Was it six months?
 A I don't remember. I didn't like the place and I don't remember.
 Q Where did you live before you lived at Wilburton?
 A Krebbs.
 Q How long?
 A I don't remember. I lived with Mrs. Hokey at the hotel. Did the cooking there.
 Q Have you any idea how long you lived there?
 A No sir; I don't think I was there quite a year. I came from there here to make this application.
 Q That was in 1901?
 A I don't remember the year.
 Q Where did you live before you lived at Krebbs?
 A That little place above Skullyville, there on the railroad. Spiro I believe the name was.
 Q You recollect how long you lived there?
 A Quite a while, but I can't tell to save my life.
 Q About how long did you live in the neighborhood?
 A I couldn't tell you; I lived there and so many other places. I just went wherever I could get work at; that was the way it was.
 Q Did you have any children by William H. Loring?
 A No sir, I didn't.
 Q On your appearance before this office January 17, 1901 you stated at that time that you were living down at Krebbs; that you had been cooking at the Randolph hotel at that time.
 A Yes, I was living with Mrs. Hokey; I tried my best to think of the name of that hotel but I couldn't.
 Q You also stated at that time that you had lived in Arkansas and also in the territory of Oklahoma.
 A Yes, I did go to Oklahoma; I was in Oklahoma about three months before I came down here. I did forget that and was trying my best to think of all the places.
 Q How long did you stay out there?
 A Three months, or something near that.
 Q Then came back?
 A Came back to McAlester and stayed there a month or two but I

have forgotten the people's name that I stayed with. Went from there to Krebs.

Q Before you moved to Oklahoma, where did you live?

A I live at Spiro, or somewhere around there.

Q When was it you lived over at Ft. Smith?

A I lived there every once in a while. Moved back and forth so many times I couldn't tell you. I went down to Ft. Smith and got sewing and sewed, but I lived in a little cheap house on the Territory side. I got the sewing and just anything to make a little money and live. I had a hard time.

Q You never owned any property in the Choctaw Nation, did you?

A Well, we took the place up, me and Will went up there and called it my home. I was the one furnished the money towards doing all we had done. Will had nothing and what I had we got it all washed away.

Q What did you do after that?

A I went back and took in sewing down at Ft. Smith. I bought a little house over there on the territory side and I lived in that. Will went back up there and got some little rafts and brought down for our wood. We claimed that.

Q How long before the time that you appeared here before the Commission in 1901 had Mr. Loring left you?

A Well, he had been gone some time. I told the dates then but I couldn't tell you now. I told the dates when I was here before. I can't tell you it was in September some time. He went off to haul a load of hay at Stigler and he never did come back.

Q Had Mr. Loring ever been married before you married him?

A No sir.

On behalf of the Commissioner:

William H. Loring, through whom the applicant claims her intermarried rights, is down on Choctaw Field Card No. 1621 opposite No. 4594, approved by the Secretary of the Interior December 12, 1902.

Q You claim to be a white woman?

A Yes.

Q What is the name of your father?

A Shinn.

Q First name is what?

A Justice.

Q What is the name of your mother?

A Lottie.

By S. A. Apple:

Q Since your marriage to Mr. Loring in 1887, have you ever had a home outside of the Indian Territory?

A No sir.

Q Did you have a home in Oklahoma at the time you went there?

A No sir, I just went there to pick cotton.

Q You lived with Mr. Loring 11 years you say?

A Yes sir.

Q Was there any separation in that time?

A No sir; he would go away and stay for probably a week at a time, but it was just to spree around, he always came home.

Q You were known as husband and wife in the community in which you lived?

A Yes sir.

Q You had no other living husband at that time?

A No sir, none at all.

Witness dismissed.

I, May Hudson, state upon oath that as stenographer to the Commissioner to the Five Civilized Tribes I correctly recorded the supplemental testimony in the foregoing application for enrollment and that the foregoing is a true and complete transcript of my stenographic notes thereof (E. & O.E.)

May Hudson

Subscribed and sworn to before me this 8th day of October, 1906.

Walter W. Chappell
Notary Public.

7-D-509.
O.L.J.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of
Lulie Loring as a citizen by intermarriage of the Choctaw Nation.

D E C I S I O N .

It appears from the record herein that on January 17, 1901, Lulie Loring appeared before the Commission to the Five Civilized Tribes at Muskogee, Indian Territory, and made application for enrollment as a citizen by intermarriage of the Choctaw Nation.

It further appears from the record herein that on August 7, 1887, the applicant, Lulie Loring, was lawfully married to William H. Loring, a recognized and enrolled citizen by blood of the Choctaw Nation, whose name appears as number 4594 upon a list prepared by the Commission to the Five Civilized Tribes under the provisions of the Act of Congress approved July 1, 1902 (32 Stats., 641), of persons entitled to enrollment as citizens by blood of the Choctaw Nation, and approved by the Secretary of the Interior December 12, 1902; that at the time of said marriage both persons above mentioned were residents in good faith of the Choctaw Nation; and that they lived together continuously as husband and wife in said nation until September, 1898.

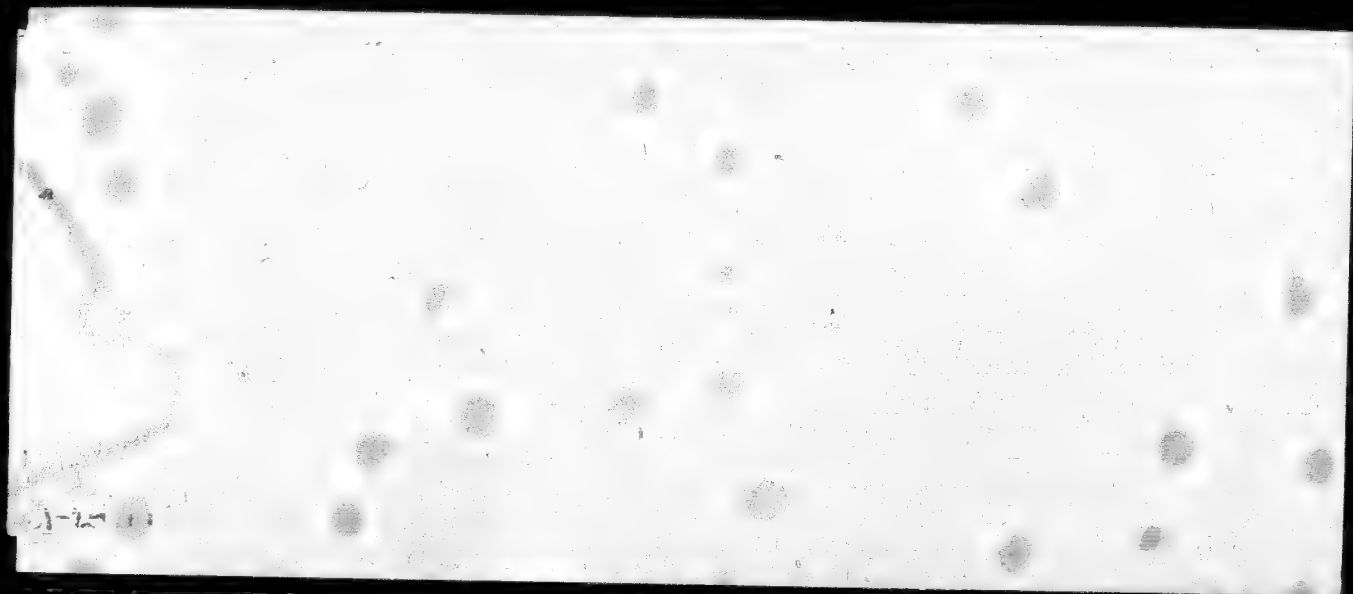
I am, therefore, of the opinion that Lulie Loring should be enrolled as a citizen by intermarriage of the Choctaw Nation under the provisions of the Acts of Congress approved June 28, 1898 (30 Stats., 495), and July 1, 1902 (32 Stats., 641), and it is so ordered.



Commissioner.

Muskogee, Indian Territory,

OCT 1 1906



7-D-609

Received of the Commissioner to the Five Civilized Tribes
one copy of the testimony of Lulie Loring of October 6, 1906, in
the matter of her application for enrollment as a citizen by in-
termarriage of the Choctaw Nation.

SA Apple

Muskogee, Indian Territory,
February 2, 1907.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of
Lullie Isaacs (formerly Loring) as a citizen by intermarriage of
the Choctaw Nation.

TO ANSFIELD, McMURRAY & CORNISH,
Attorneys for the Choctaw and Chickasaw Nations,
South McAlester, Indian Territory.

You are hereby advised and notified that on Saturday,
October 6, 1906, at 9 o'clock A. M., or on that date at the con-
venience of the Commissioner to the Five Civilized Tribes, we shall
introduce before said Commissioner at his general office in Musko-
gee, Indian Territory, testimony and evidence tending to establish
the right to enrollment of the applicant in the above mentioned
case.

Take due notice of the time and place of such hearing
so that you may be present thereat if you so desire.

U. S. Register. Calls go to
every post office in the world.
Letters and parcels may be registered
at any post office, and they will be
delivered to the addressee at the
station, and by mail carriers throughout
their routes. Letters will be registered
by letter carriers in the residential dis-
tricts of cities.

For registered mail delivered the high-
est rate of postage is charged. A return
receipt is given to the sender, and a return
receipt signed by the addressee, or his
agent. For registered mail delivered to a
foreign country the sender receives with the
certificate of postage a receipt from the
post office of the country to which the mail
is sent. Return receipts are forwarded
to the sender in the envelope of the package.

Letter No. 838

P. O. Mansfield, Mo.

Received for registration

1906 from

addressed to

class postage prepaid

Postmaster, per

SOUTHERN DISTRICT.

I, Wirt Franklin, being first duly sworn on oath state
that on the 19th day of September, 1906, I forwarded by registered
mail to Mansfield, McMurray & Cornish, South McAlester, Indian
Territory, a true and perfect copy of the above notice, and I at-
tach hereto postmaster's receipt for same.

Wirt Franklin

Subscribed and sworn to before me this 19th day of Sep-
tember, 1906.

Manuel Comer
Notary Public.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of
Lullie Isaacs (formerly Loring) as a citizen by intermarriage of
the Choctaw Nation.

TO MANSFIELD, McMURRAY & CORNISH,

Attorneys for the Choctaw and Chickasaw Nations,
South McAlester, Indian Territory.

You are hereby advised and notified that on Saturday,
October 6, 1906, at 9 o'clock A. M., or on that date at the con-
venience of the Commissioner to the Five Civilized Tribes, we shall
introduce before said Commissioner at his general office in Musko-
gee, Indian Territory, testimony and evidence tending to establish
the right to enrollment of the applicant in the above mentioned
case.

Take due notice of the time and place of such hearing
so that you may be present thereat if you so desire.

M. Apple
Attorney for the applicant.

Ardmore, Ind. Ter.,
September 19, 1906.

INDIAN TERRITORY,
SOUTHERN DISTRICT.

I, Wirt Franklin, being first duly sworn on oath state
that on the 19th day of September, 1906, I forwarded by registered
mail to Mansfield, McMurray & Cornish, South McAlester, Indian
Territory, a true and perfect copy of the above notice, and I at-
tach hereto postmaster's receipt for same.

Wirt Franklin

Subscribed and sworn to before me this 19th day of Sep-
tember, 1906.

Manuel Comer
Notary Public.

COMMISSIONERS
HENRY L. DAWES
TAMM BIRBY,
THOMAS B. NEEDLES
C. W. BRECKINRIDGE

ALLISON L. AVIESWORTH,
SECRETARY

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES.

REFER IN REPLY TO THE FOLLOWING:

Choctaw-D-609

Muskogee, Indian Territory, February 26, 1903.

Lullie Loring,

Krebs, Indian Territory.

Dear Madam:

It is the present intention of the Commission to establish land offices in the Choctaw and Chickasaw Nations April 1, 1903.

The Act of Congress approved July 1, 1902, provides:

"No person whose name does not appear upon the rolls as herein provided shall be entitled in any manner to participate in the distribution of the common property of the Choctaw and Chickasaw tribes."

It will be necessary, before your right to enrollment as an intermarried citizen of the Choctaw Nation can be determined, that you appear before the Commission and testify as to your status on September 25, 1902.

For this purpose the Commission has made an appointment at Atoka, Indian Territory, March 10 to 13, 1903, and you should personally appear at said place on one of the above dates for the purpose herein indicated. No further action can be taken relative to the determination of your right to enrollment until this testimony is received.

Respectfully,



Chairman.

Choctaw 1621
Choctaw D609

Muskogee, Indian Territory, October 24, 1903.

Commissioner in Charge,

Choctaw Land Office,

Atoka, Indian Territory,

Dear Sir:

Receipt is hereby acknowledged of your letter of the nineteenth instant referring to Choctaw enrollment card field number 1621 wherein appears the name of William H. Loring, approved roll of citizens by blood of the Choctaw Nation 4504, said card bears the following notation: "No. 1 is the husband of Lullie Loring on Choctaw card #D 609."

In your letter of the nineteenth instant you advise that on that date Mr. Loring appeared before your office and made selection of land for allotment for himself and at that time testified that he was the husband of one Sallie Loring; that his wife had never made personal application to the Commission for enrollment as a citizen by intermarriage of the Choctaw Nation, and that he was never married to any person by the name of Lullie Loring, and that consequently the above notation is in error. You request to be advised in reference to this matter.

Choctaw L O 2

In reply to your letter you are advised that on July 7, 1902, in reply to a letter of William H. Loring of Bennington, Indian Territory, with which was inclosed his marriage license and certificate to Mrs. Sallie Terrel, and requesting that she be enrolled as a citizen by intermarriage of the Choctaw nation, he was advised, with the return of his marriage license and certificate, that if Sallie Loring desired to be enrolled as a citizen by intermarriage of the Choctaw nation it would be necessary for her to make personal appearance before the Commission at its office at Muskogee, Indian Territory, and that in view of the probability of some early date being fixed or agreed upon closing the rolls of citizens of the Choctaw and Chickasaw Nations, that she make such application as early as practicable.

Apparently no application was ever made for the said Sallie Loring for enrollment as a citizen by intermarriage of the Choctaw Nation, but on December 18, 1902, we received an application for the enrollment of their minor child, Naomi Loring as a citizen of the Choctaw Nation. On February 2, 1903, William H. Loring was advised of the reception of the application for the enrollment of Naomi Loring, but that it would be necessary for him to furnish the Commission with either the original or a certified copy of the marriage license and certificate between himself and the mother of the child. To this letter we have received no response and consequently the matter of the final enrollment of Naomi Loring has not as yet been disposed of.

Choctaw L O 3

We have further to advise that at the office of the Commission at Muskogee, Indian Territory, on January 17, 1901, Lulie Loring, forty five years of age, whose post office was Krebs, Indian Territory, made application for enrollment as a citizen by intermarriage of the Choctaw nation, claiming that she was married to William H. Loring on August 7, 1887 in Skullville County, Choctaw Nation, by one Parson Shipley. The applicant was unable to produce any documentary evidence of her marriage to William H. Loring, but has filed several affidavits of persons who knew them as husband and wife.

She alleges that she lived with Loring about eleven years or up until 1898 when Loring deserted her. At the time of her application January 17, 1901, the William H. Loring to whom she is alleged to have been married, was conclusively identified as the William H. Loring appearing upon Choctaw roll card Number 1621. Therefore the notation appearing upon such card that Number 1 is the husband of Lulie Loring, on Choctaw card D609 is correct and should so remain.

It will probably develop upon a further examination of William H. Loring that he was married to or did live with Lulie Loring whose maiden name was Lulie Shinn up to the time of the alleged desertion and separation in 1898 and that he afterwards married his present wife, Sallie Loring.

Respectfully,

Choctaw L O 3

We have further to advise that at the office of the Commission at Muskogee, Indian Territory, on January 17, 1901, Lulie Loring, forty five years of age, whose post office was Krebs, Indian Territory, made application for enrollment as a citizen by intermarriage of the Choctaw nation, claiming that she was married to William H. Loring on August 7, 1887 in Skullyville County, Choctaw Nation, by one Parson Shipley. The applicant was unable to produce any documentary evidence of her marriage to William H. Loring, but has filed several affidavits of persons who knew them as husband and wife.

She alleges that she lived with Loring about eleven years or up until 1896 when Loring deserted her. At the time of her application January 17, 1901, the William H. Loring to whom she is alleged to have been married, was conclusively identified as the William H. Loring appearing upon Choctaw roll card Number 1621. Therefore the notation appearing upon such card that Number 1 is the husband of Lulie Loring, on Choctaw card D609 is correct and should so remain.

It will probably develop upon a further examination of William H. Loring that he was married to or did live with Lulie Loring whose maiden name was Lulie Shinn up to the time of the alleged desertion and separation in 1898 and that he afterwards married his present wife, Sallie Loring.

Respectfully,

Commissioner in Charge

Muskogee, Indian Territory, January 13, 1904.

W. H. Loring,

Bennington, Indian Territory.

Dear Sir:

Receipt is hereby acknowledged of your letter of the 8th inst., enclosing the marriage license and certificate of W. H. Loring and Sallie Terrel, and the same have been duly filed with the records of the Commission in the matter of the application for enrollment of your minor daughter, Naomi Loring, as a citizen by blood of the Choctaw Nation.

Respectfully,

Chairman.

COMMISSIONERS
TAMM DIXIE,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE,
W. E. STANLEY.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

REFER IN REPLY TO THE FOLLOWING

Choctaw D. 609

ALLISON L. AYLESWORTH,
SECRETARY

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES. Muskogee, Indian Territory, February 10, 1904.

Julie Loring,
Krebs, Indian Territory.

Dear Madam:

You are hereby advised that under direction of the Secretary of the Interior of November 18, 1903, and upon a protest filed with the Commission by the attorneys for the Choctaw and Chickasaw Nations dated January 23, 1904, no further action will be taken relative to your enrollment as a citizen by intermarriage of the Choctaw Nation until the Commission is further instructed by the Secretary of the Interior.

Respectfully,


Commissioner in Charge.

COMMISSIONER
JAMES BIXBY
THOMAS B. NEEDLES
C. B. BRECKINRIDGE

WM. G. BEALL,
Secretary

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

7-D-609.

Muskogee, Indian Territory, August 16, 1904.

Lullie Loring,
Krebs, Indian Territory.

Dear Madam:

You are hereby notified that before further consideration can be given your application for enrollment as an intermarried citizen of the Choctaw Nation, it will be necessary for you to appear in person before the Commission to testify as to your intermarried status on September 25, 1902.

For this purpose you are requested to appear at Muskogee, Indian Territory, as soon as possible, or at the Land Office at Atoka, Indian Territory, on September the 6th or 7th, 1904, or at the Land Office at Tishomingo, Indian Territory, on September the 8th or 9th, 1904.

Respectfully,

Commissioner in Charge.

7-D-609

Muskogee, Indian Territory, January 27, 1905.

Claude P. Spriggs,

Fort Towson, Indian Territory.

Dear Sir:

Receipt is hereby acknowledged of your letter of January 23, 1905, asking the status of the enrollment of Mrs. Sallie Loring, wife of William H. Loring, as an intermarried citizen of the Choctaw Nation.

In reply to your letter you are informed that it appears from our records that Lulie Loring, wife of William H. Loring, is an applicant to the Commission for enrollment as an intermarried citizen of the Choctaw Nation and affidavits of witnesses who were present at the marriage of Lulie Shinn and William H. Loring have been filed with the record in this case.

You are advised that if this is the person referred to in your letter as Mrs. Sallie Loring it will be necessary for her to appear in person before the Commission at its office in Muskogee, Indian Territory, immediately for the purpose of testifying relative to her intermarried status on September 25, 1902.

Respectfully,

Chairman.

7D-609

Muskogee, Indian Territory, November 9, 1905.

C. C. Ayres,

Muskogee, Indian Territory.

Dear Sir:

On January 17, 1901, Lullie Loring appeared before the Commission to the Five Civilized Tribes, at Muskogee, Indian Territory, and made application for enrollment as a citizen by intermarriage of the Choctaw Nation.

Frequent letters addressed to her at her last known post office address, at Krebs, Indian Territory, have been returned unclaimed.

If you have any knowledge relative to the whereabouts of said applicant, kindly notify this office at the earliest possible date.

Respectfully,

Commissioner.

Env.

7D-609

Muskogee, Indian Territory, November 9, 1905.

William H. Loring,

Bennington, Indian Territory.

Dear Sir:

On January 17, 1901, your former wife, Lulia Loring, appeared before the Commission to the Five Civilised Tribes, at Muskogee, Indian Territory, and made application for enrollment as a citizen by intermarriage of the Choctaw Nation.

Frequent letters addressed to her at her last known post office address at Krebs, Indian Territory, have been returned unclaimed.

If you have any knowledge relative to the whereabouts of said applicant, kindly notify this office of same at the earliest possible date.

Respectfully,

Commissioner.

Env.

7D-609

Muskogee, Indian Territory, November 9, 1905.

Postmaster,
Krebs, Indian Territory.

Dear Sir:

On January 17, 1901, Lullie Loring appeared before the Commission to the Five Civilized Tribes, at Muskogee, Indian Territory, and made application for enrollment as a citizen by intermarriage of the Choctaw Nation.

Frequent letters addressed to her at her last known post office address, at Krebs, Indian Territory, have been returned unclaimed.

If you have knowledge relative to the whereabouts of said applicant, kindly notify this office at the earliest possible date.

Respectfully,

Commissioner.

Env.

Am unable to give her address. left here without leaving any address.

Very Resp.

Rena Russell,
P. M.

7-15-19
Muskogee, Ind. Ter.
Nov. 11/05

Hon. Tams Bixby,

Muskogee,

Ind. Ter.

In reply to inclosed letter will say I knew the applicant some years since She was an intermarried white woman. Her husband was Wm. Loring an almost full blood Choctaw. his mother was at one time the wife of an old man Remington a gun and key tinker who made his home at this place. I do not know his initials.

Some of your force could no doubt locate him and from him ascertain the whereabouts (if living) of Mrs. Loring. She at the time I knew her was a very deserving industrious woman whilst Loring the Indian husband was not worth killing.

Very truly yours
C. C. Ayers.

Bennington, It.

the Com to the five Tribes
Muskogee, It.

Dear Sir

I dont know any thing about her whereabouts the Last time
I heard any thing she went to Arkas and died about 3 years ago is
the only thing I can tell.

Your truly

W. H. Loring.

7-1064

Muskogee, Indian Territory, October 17, 1906.

Julie Isaacs,

COPY.

Bengal, Indian Territory.

Dear Madam:

Inclosed herewith you will find a copy of the decision of the Commissioner to the Five Civilized Tribes, rendered October 17, 1906, granting the application for the enrollment of Julie Loring as a citizen by intermarriage of the Choctaw Nation.

The attorneys for the Choctaw and Chickasaw Nations have been furnished a copy of the decision and have been allowed fifteen days from the date of this notice within which to file protest against your enrollment. If at the expiration of that time no protest has been filed, the name of Julie Loring will be placed upon the final roll of citizens by intermarriage of the Choctaw Nation, to be submitted to the Secretary of the Interior for his approval.

Respectfully,

SIGNED *Tamie Dixby*
Commissioner.

Registered.

Incl. 7-1064.

Washkago, Indian Territory, October 17, 1906.

S. A. Apple,
Attorney at Law,
Ardmore, Indian Territory.

Dear Sir:

You are hereby notified that the Commissioner to the Five Civilized Tribes, on October 17, 1906, rendered his decision granting the application for the enrollment of Lullie Loring as a citizen by intermarriage of the Choctaw Nation.

The attorneys for the Choctaw and Chickasaw Nations have been furnished a copy of the decision and have been allowed fifteen days from the date of this notice within which to file protest against her enrollment. If at the expiration of that time no protest has been filed, the name of Lullie Loring will be placed upon the final roll of citizens by intermarriage of the Choctaw Nation to be submitted to the Secretary of the Interior for his approval.

Respectfully,

Tamc Birby
Commissioner.

Registered

7-D-609

Muskogee, Indian Territory, October 17, 1906.

Wansfield, McMurray & Cornish,

Attorneys for Choctaw and Chickasaw Nations,

McAlester, Indian Territory.

Gentlemen:

Inclosed herewith you will find a copy of the decision of the Commissioner to the Five Civilized Tribes, rendered October 17, 1906, granting the application for the enrollment of Lulie Loring as a citizen by intermarriage of the Choctaw Nation.

You are hereby advised that you will be allowed fifteen days from the date of this notice within which to file protest against her enrollment. If at the expiration of that time no protest has been filed, the name of Lulie Loring will be placed upon the final roll of citizens by intermarriage of the Choctaw Nation to be submitted to the Secretary of the Interior for his approval.

Respectfully,

James H. McCoy
Commissioner.

Registered.

Incl. 7-D-609.

7-6044

Muskogee, Indian Territory, October 30, 1906.

Chief Clerk,

Choctaw Land Office,

Atoka, Indian Territory.

Dear Sir:

There is inclosed herewith for your information copy of Choctaw roll card No. 6044, Lullie Loring, and you are advised to make duplicate card of this number in your possession conform to this information.

Respectfully,

EB 3-30.

Commissioner.

Muskogee, Indian Territory, January 8, 1901.

Lullie Loring,

Krebs, Indian Territory.

Dear Madam:

The Commission is in receipt of your letter of December 20th, 1900, in which you desire to be informed if your name appears on the roll of citizens of the Choctaw Nation and in which you state your husband's name is William H. Loring.

You are informed that a careful search of the records of the Commission does not show that you are listed for enrollment as a citizen by intermarriage of the Choctaw Nation. The records of the Commission do show, however, that William H. Loring, 31 years of age, of Bennington, Indian Territory, is listed for enrollment as a citizen by blood of the Choctaw Nation.

If you desire to make application for enrollment as a citizen by intermarriage of the Choctaw Nation, you can do so at any time prior to the forwarding of the final rolls of citizens of the Choctaw Nation to the Secretary of the Interior, at the office of the Commission in Muskogee, Indian Territory. Such application must be made by you in person and it is suggested if you contemplate making such application that you do so in the near future.

Yours truly,

Acting Chairman.

Muskogee, Indian Territory, January 8, 1901.

Lullie Loring,

Krebs, Indian Territory.

Dear Madam:

The Commission is in receipt of your letter of December 20th, 1900, in which you desire to be informed if your name appears on the roll of citizens of the Choctaw Nation and in which you state your husband's name is William H. Loring.

You are informed that a careful search of the records of the Commission does not show that you are listed for enrollment as a citizen by intermarriage of the Choctaw Nation. The records of the Commission do show, however, that William H. Loring, 31 years of age, of Bennington, Indian Territory, is listed for enrollment as a citizen by blood of the Choctaw Nation.

If you desire to make application for enrollment as a citizen by intermarriage of the Choctaw Nation, you can do so at any time prior to the forwarding of the final rolls of citizens of the Choctaw Nation to the Secretary of the Interior, at the office of the Commission in Muskogee, Indian Territory. Such application must be made by you in person and it is suggested if you contemplate making such application that you do so in the near future.

Yours truly,

Muskogee, Indian Territory, February 26, 1903.

Lulie Loring,

Krebs, Indian Territory.

Dear Madam:

It is the present intention of the Commission to establish land offices in the Choctaw and Chickasaw Nations April 1, 1903.

The Act of Congress approved July 1, 1902, provides:

"No person whose name does not appear upon the rolls as herein provided shall be entitled in any manner to participate in the distribution of the common property of the Choctaw and Chickasaw tribes."

It will be necessary, before your right to enrollment as an intermarried citizen of the Choctaw Nation can be determined, that you appear before the Commission and testify as to your status on September 25, 1903.

For this purpose the Commission has made an appointment at Atoka, Indian Territory, March 10 to 13, 1903, and you should personally appear at said place on one of the above dates for the purpose herein indicated. No further action can be taken relative to the determination of your right to enrollment until this testimony is received.

Respectfully,

Chairman.

Chootaw D 609

Muskogee, Indian Territory, February 10, 1904.

Julie Loring,

Krebs, Indian Territory.

Dear Madam:

You are hereby advised that under direction of the Secretary of the Interior of November 18, 1903, and upon a protest filed with the Commission by the attorneys for the Chootaw and Chickasaw Nations dated January 23, 1904, no further action will be taken relative to your enrollment as a citizen by intermarriage of the Chootaw Nation until the Commission is further instructed by the Secretary of the Interior.

Respectfully,

Commissioner in Charge.

7-D-509.

Muskogee, Indian Territory, August 16, 1904.

Lullie Loring,

Krebs, Indian Territory,

Dear Madam:

You are hereby notified that before further consideration can be given your application for enrollment as an intermarried citizen of the Choctaw Nation, it will be necessary for you to appear in person before the Commission to testify as to your intermarried status on September 25, 1902.

For this purpose you are requested to appear at Muskogee, Indian Territory, as soon as possible, or at the Land Office at Atoka, Indian Territory, on September the 6th or 7th, 1904, or at the Land Office at Tishomingo, Indian Territory, on September the 8th or 9th, 1904.

Respectfully,

Commissioner in Charge.

7-6044

Muskogee, Indian Territory, October 30, 1906.

Chief Clerk,

Chickasaw Land Office,

Ardmore, Indian Territory.

Dear Sir:

There is inclosed herewith for your information copy of
Choctaw roll card No. 6044, Lullie Loring, and you are advised to
make duplicate card of this number in your possession conform to
this information.

Respectfully,

EB 4-30.

Commissioner.

7-1064

Muskogee, Indian Territory, October 17, 1906.

CO.

Julie Isaacs,

Bengal, Indian Territory.

Dear Madam:

Inclosed herewith you will find a copy of the decision of the Commissioner to the Five Civilized Tribes, rendered October 17, 1906, granting the application for the enrollment of Julie Loring as a citizen by intermarriage of the Choctaw Nation.

The attorneys for the Choctaw and Chickasaw Nations have been furnished a copy of the decision and have been allowed fifteen days from the date of this notice within which to file protest against your enrollment. If at the expiration of that time no protest has been filed, the name of Julie Loring will be placed upon the final roll of citizens by intermarriage of the Choctaw Nation, to be submitted to the Secretary of the Interior for his approval.

Respectfully,

SIGNED *Tamm Kirby*
Commissioner.

Registered.

Incl. 7-1064.

Muskogee, Indian Territory, October 17, 1906.

COPY

S. A. Apple,
Attorney at Law,
Ardmore, Indian Territory.

Dear Sir:

You are hereby notified that the Commissioner to the Five Civilized Tribes, on October 17, 1906, rendered his decision granting the application for the enrollment of Julia Loring as a citizen by intermarriage of the Choctaw Nation.

The attorneys for the Choctaw and Chickasaw Nations have been furnished a copy of the decision and have been allowed fifteen days from the date of this notice within which to file protest against her enrollment. If at the expiration of that time no protest has been filed, the name of Julia Loring will be placed upon the final roll of citizens by intermarriage of the Choctaw Nation to be submitted to the Secretary of the Interior for his approval.

Respectfully,

SIGNED *Tamc Dixby*
Commissioner.

Registered

Muskogee, Indian Territory, October 17, 1906.

Mansfield, McMurray & Cornish,

Attorneys for Choctaw and Chickasaw Nations,

McAlester, Indian Territory.

Gentlemen:

Inclosed herewith you will find a copy of the decision of the Commissioner to the five Civilized Tribes, rendered October 17, 1906, granting the application for the enrollment of Lullie Loring as a citizen by intermarriage of the Choctaw Nation.

You are hereby advised that you will be allowed fifteen days from the date of this notice within which to file protest against her enrollment. If at the expiration of that time no protest has been filed, the name of Lullie Loring will be placed upon the final roll of citizens by intermarriage of the Choctaw Nation to be submitted to the Secretary of the Interior for his approval.

Respectfully,

Tamm Dixby
Commissioner.

Registered.

Incl. 7-D-609.

Choctaw 6045

Joseph Bell

Refused Nov 8, 1906

6045

See Pet # W-31

IN RE
Application for Enrollment of
INFANT CHILD

Joseph Beal
as a citizen of the

CHOCTAW *Nation.*

Approved *Dec. 13 1899* *190*

A.S. McKennon.
Commissioner.

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

IN RE APPLICATION FOR ENROLLMENT, as a citizen of the Choctaw Nation,
 of Joseph Beal, born on the 26 day of July 1898
 (Here insert name of child)
 Name of Father: Andrew Beal, a citizen of the Choctaw Nation.
 Name of Mother: Bell Beal, a citizen of the Choctaw Nation.
 Post-Office: Durant, I.T.

AFFIDAVIT OF MOTHER.

UNITED STATES OF AMERICA,
 INDIAN TERRITORY,
Central District.

I, Bell Beal, on oath state that I am 34
 years of age and a citizen, by intermarriage, of the Choctaw Nation;
 that I am the lawful wife of Andrew Beal, who is a citizen, by
adoption, of the Choctaw Nation, that a male child was
1898 (Male or female)
 born to me on the 26 day of July 1898; that said child has been
 named Joseph Beal, and is now living.

WITNESSES TO MARK.

Bell Beal.(Must be Two
Witnesses)Subscribed and sworn to before me this 17 day of August

1899

1898

(SEAL)

Chas. E. McPharren

Notary Public.

AFFIDAVIT OF ATTENDING PHYSICIAN, OR MIDWIFE.

UNITED STATES OF AMERICA,
 INDIAN TERRITORY,
Central District.

I, _____, a Physician, on oath state that I
 attended on Mrs. Bell Beal, wife of Andrew Beal,
1898
 on the 26 day of July, 1898; that there was born to her on said
 date a male child; that said child is now living and is said to have been
 (Male or female)
 named Joseph Beal.

WITNESSES TO MARK.

W. A. Halcy, M. D.(Must be Two
Witnesses)Subscribed and sworn to before me this 17th day of August

1898

1898

(SEAL)

Chas. E. McPharren

Notary Public.

Joseph Beal, petitioner,

vs.

Choctaw & Chickasaw Nations, defendants.

I, Thos. Norman, do solemnly swear that I served a true and correct, perfect and literal copy of the above petition in the above styled case of Joseph Beal, to which this affidavit is attached, on Mansfield, McMurray & Cornish, on January 19, 1906, by registering said copy to them addressed to them at South McAlester, I.T. on said date, and the registry receipt hereto attached was issued on said registration.

Thos. Norman.

Subscribed and sworn to before me this January 20, 1906.

H.P. Stonnum
Notary Public.

(SEAL)

(Registry Receipt Attached).

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

Joseph Beal, Petitioner,

vs.

Choctaw and Chickasaw Nations,
defendants.

Petition for identification and
Enrollment.

Comes now petitioner, Joseph Beal, by and through his father Andrew Beal, and respectfully states that he is a citizen of the Choctaw Nation, and is entitled to be identified and enrolled as such citizen of said nation on the rolls of said nation, and to the enjoyment of all the rights, privileges and immunities of any other citizen of that nation.

As grounds therefor, he alleges that his father, Andrew Beal, a white man, was adopted into the Choctaw Nation sometime about the 25 day of Oct. 1890; that since said adoption he has continued at all times to be a citizen of said nation and a resident thereof; that he has ever since said adoption been enrolled on the rolls of said nation; that he is now on said rolls, and has taken his allotment of lands and his share of the monies of said tribe heretofore distributed; that at the date of his adoption he was married to a Indian woman whose maiden name was Martha Ann Marlow; that his first wife was legally divorced by the court sitting at Boggy Court about September 1897 and she died on about the 10 day of March 1898, the said Andrew Beal married Belle Mathers, a white woman, on the 25 day of April 1897, after the divorce aforesaid; that both the said Andrew Beal and his wife Belle Beal were residents on the Choctaw and Chickasaw Nation at all times since said marriage; that while they were residents and citizens as aforesaid, they had born to them as the issue of said marriage one child, your petitioner herein named Joseph Beal, who is now living; and that said child is now a resident of said nation, and is a citizen thereof, and is entitled to be enroll on the rolls of said nation.

born on the 26 day of July 1898.

Said Joseph Beal duly and in apt time, before the 25th day of December, 1902, made application to the Commission to the Five Civilized Tribes for his enrollment, and the Birth Certificate forwarded to the Commission is now on file in said Commissioners Office.

Wherefore, considering the above, petitioner prays to be identified and enrolled as a citizen of the Choctaw Nation, and for any and all other proper and suitable relief.

Thos Norman
Attorney for Petitioners.

I, Andrew Beal, do solemnly swear that the facts and statements contained in the above petition are true.

his
Andrew X Beal
mark

Subscribed and sworn to before me this the 15 day of January, 1906.

Notary Public.

Witness to signature

John G. McCallister.

Indorsed on back as follows:

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

F I L E D .

JAN 22 1906.

Tams Bixby, Commissioner.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.
Muskogee, Indian Territory, February 28, 1906.

In the matter of the application for the enrollment of
Joseph Beal as a citizen of the Choctaw Nation.

Under the regulations adopted by the Commissioner to the Five Civilized Tribes January 2, 1906, there was filed on January 22, 1906, by Thomas Norman, attorney for the petitioner, a petition praying for the enrollment of Joseph Beal as a citizen of the Choctaw Nation, by reason of being the child of Andrew Beal, whose name appears on the roll of intermarried citizens of the Choctaw Nation, approved by the Secretary of the Interior, opposite No. 1473.

On February 7, 1906, Andrew Beal, Durant, Indian Territory, Thomas Norman, attorney for the petitioner, Ardmore, Indian Territory, and Messrs. Mansfield, McMurray & Cornish, South McAlester, Indian Territory, were notified that the Commissioner to the Five Civilized Tribes would at his office at Muskogee, Indian Territory, on Tuesday, February 27, 1906, at two o'clock P.M., hear such testimony and receive such other evidence as might be submitted in support of the petition for the enrollment of Joseph Beal as a citizen of the Choctaw Nation.

Now on this 28th day of February, 1906, at four o'clock P.M., this case not being called for trial on February 27, 1906, the case was called for trial, and the following appearances were entered and proceedings had.

APPEARANCES:

Thomas Norman, Ardmore, Indian Territory, appearing
as attorney for the petitioner,
Brooks Fort, of Mansfield, McMurray & Cornish,
representing the Choctaw and Chickasaw Nations.

By Mr. Norman:

If the Commissioner please, the witnesses for the petitioner in this case are the father and the mother of the petitioner. The father of the petitioner is a very old man, feeble and in ill health, and his physical condition is such that he is confined to his home at all times. I notified him by letter to be here today, and a letter purporting to have been written by R.M.C., signing himself doctor, (M.D.), was sent me, which stated that it was impossible for Andrew Beal to be here on account of his own health and that of his family.

My opinion is that these parties will never be in such condition of health as to appear, and unless the Commission grant me the right to take their deposition at their home it will be unable to secure any further evidence, unless affidavits be accepted, and as I understand, this is contrary to the rules of the Commission in this class of cases. There is nothing for me to do but submit the case upon the evidence heretofore submitted in it, consisting of the birth certificate, which purports to have been signed by Belle Beal on the 26th day of July, 1898, and the affidavit of the physician, W.A. Haley, which purports to have been signed on the 26th day of July, 1898.

I, therefore, offer in evidence the affidavit of Belle Beal, the mother of the child, and of W.A. Haley, the physician who attended upon her when the child was born, and submit the case upon this evidence.

By Mr. Fort:

The Choctaw and Chickasaw Nations object to the consideration of this application, or any proceedings herein, for the reason that the name of this applicant does not appear upon any tribal roll of either nation, within the meaning of the several acts of Congress, and that no formal application was filed within the time prescribed by law.

We further object to the introduction of the instrument just offered by attorney for the applicant, for the reason that it is not shown to be the best evidence obtainable. The record does not disclose that any effort has been made to obtain the attendance before the Commission of the attending physician, W.A. Haley. The record does not disclose any effort to obtain

the attendance of the mother of this applicant, Belle Beal.
We object to this letter being made a part of the record, for the reason that it is not shown that the person who wrote the letter is the witness whose testimony is desired.

Cora Moore, being duly sworn, states that as stenographer to the Commissioner to the Five Civilized Tribes, she reported the proceedings had in the above entitled cause on the 28th day of February, 1906, and that the above and foregoing is a full and complete transcript of her stenographic notes taken in said cause on said date.

Cora Moore

Subscribed and sworn to before me this 5th day of March, 1906.

Edward K. Kerner
Notary Public.

7-6045,
W- 31.
O.L.J.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

-----ooOoo-----

In the matter of the application for the enrollment of
Joseph Beal as a citizen of the Choctaw Nation.

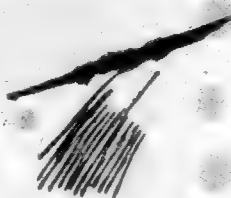
D E C I S I O N .

It appears from the record herein that on December 13, 1899, application was made to the Commission to the Five Civilized Tribes for the enrollment of Joseph Beal as a citizen of the Choctaw Nation.

Under the regulations adopted by the Commissioner to the Five Civilized Tribes January 2, 1906, there was filed on January 22, 1906, by Thomas Norman, atorney at law, Ardmore, Indian Territory, a petition verified by Andrew Beal and submitted on behalf of his minor child Joseph Beal praying that he be enrolled as a citizen of the Choctaw Nation.

The applicant, Joseph Beal, claims his right to enrollment as a citizen of the Choctaw Nation by reason of being the son of Andrew Beal, a white man whose name appears as number 1473 upon the final roll of citizens by intermarriage of the Choctaw Nation approved by the Secretary of the Interior August 22, 1905, and Bell Beal, a non-citizen white woman.

I am, therefore, of the opinion that following the ruling of the department of April 24, 1906 in the case of Mary Elizabeth Martin (I.T.D. 4048-1906), the application and petition for the enrollment of Joseph Beal as a citizen of the Choctaw Nation, should be denied under the provisions of the Act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered.



Commissioner.

Muskogee, Indian Territory,
NOV 8 1906

7-5045
W- 31

COPY.

Muskogee, Indian Territory, November 8, 1906.

Andrew P. Beal,
Wica, Indian Territory.

Dear Sir :--

Inclosed herewith you will find a copy of the decision of the Commissioner to the Five Civilized Tribes, rendered November 8, 1906, denying the application and petition for the enrollment of Joseph Beal as a citizen of the Choctaw Nation.

The decision, with the record of proceedings in the case, is this day transmitted to the Secretary of the Interior for review. The final decision of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

SIGNED *Tamm*
Commissioner.

Registered.

Incl. 7-5045.

W- 31.

7-6045
W- 31

~~COPY~~
Muskogee, Indian Territory, November 8, 1906.

Thomas Norman,
Attorney at Law,
Ardmore, Indian Territory.

Dear Sir :--

Inclosed herewith you will find a copy of the decision of the Commissioner to the Five Civilized Tribes, rendered November 8, 1906, denying the application and petition for the enrollment of Joseph Beal as a citizen of the Choctaw Nation.

The decision, with the record of proceedings in the case, is this day transmitted to the Secretary of the Interior for review. The final decision of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

Tamr Dixie
Commissioner.

Registered.

Incl. 7-6045.

W- 31.

7-6045

W- 31

Waskawee, Indian Territory, November 8, 1906.

Mansfield, McMurray & Cornish,

Attorneys for Choctaw and Chickasaw Nations,

South McAlester, Indian Territory.

Gentlemen :--

Inclosed herewith you will find a copy of the decision of the Commissioner to the Five Civilized Tribes, rendered November 8, 1906, denying the application and petition for the enrollment of Joseph Beal as a citizen of the Choctaw Nation.

The decision, with the record of proceedings in the case, is this day transmitted to the Secretary of the Interior for review. The final decision of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

Commissioner.

I.

Incl. 7-6045.

W- 31.

COPY
Muskogee, Indian Territory, November 8, 1906

The Honorable,

The Secretary of the Interior.

Sir :--

There is transmitted herewith record of proceedings in the matter of the application and petition for the enrollment of Joseph Beal as a citizen of the Choctaw Nation, including the decision of the Commissioner to the Five Civilized Tribes, dated November 8, 1906, denying said application and petition.

Respectfully,

SIGNED *Tamc Birby*
Commissioner.

7-6045.

Through the

Commissioner of Indian Affairs.

J.P.

DEPARTMENT OF THE INTERIOR.

WASHINGTON.

O.K.

L.RS.

I.T.D.

4196, 3142, 3146, -1907
3166, 3168, 4518, "
4592, 4652, 4746, "
7469, 24528, 1906.

February 27, 1907.

DIRECT.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

Your decisions in the following Choctaw citizenship cases adverse to the applicants are hereby affirmed. Copies of Indian Office letters submitting your reports and recommending that the decisions be affirmed are inclosed.

Title of Case.

Date of Your
Letter of Transmittal.

Jacob Green,
Ethel Puckett,
Joseph Beal,
O. K. Pollock,
Harry McKers, et al.,
Dealie Cooper (Miss. Choc.),
Thomas A. Turner,
Louise Embry (Freedman),
Winnie D. Johnson, (Freedman),
Delila E. Perse et al.,

June 14, 1906.
November 12, 1906.
November 8, 1906.
November 10, 1906.
November 6, 1906.
December 15, 1906.
October 19, 1906.
January 16, 1907.
February 2, 1907.
June 21, 1906.

A copy hereof, and all the papers in the above mentioned cases have been sent to the Indian Office.

Respectfully,

Jesse E. Wilson,

Assistant Secretary.

10 inc. and 22 inc.
for Ind. Of., with
copy hereof.

A.F.Mc
2-28-07.

Refer in reply to the following:

Land.
99054-1906.
D.C.12045.

DEPARTMENT OF THE INTERIOR.

OFFICE OF INDIAN AFFAIRS.

WASHINGTON.

February 12, 1907.

The Honorable,

The Secretary of the Interior.

Sir:

Referring to Department letter of July 10, 1906 (I.T.D. 2548), there is enclosed a report from the commissioner to the Five Civilized Tribes, dated November 8, 1906, transmitting the record relative to the application of Joseph Neal for enrollment as a citizen by blood of the Choctaw Nation.

On December 13, 1899, application was made to the Commission to the Five Civilized Tribes for the enrollment of Joseph Beal, as a citizen by blood.

On November 6, 1906, the Commissioner held that the applicant was not entitled to such enrollment.

The record shows that the applicant is the minor child of Andrew Beal, a white man, identified at No. 1473 on the final roll of citizens by intermarriage of the Choctaw Nation approved by the Department on August 22, 1905 and Bell Beal, a non-citizen.

Under the Departmental decision of July 10, 1906, (I.T.D. 2548) in the case of William Jesse Bacon, the decision

of the Commissioner adverse to the applicant is recommended
for approval.

Very respectfully,

C. F. Larrabee,
Acting Commissioner.

H.R.D.- NL.

7-6045
V- 31

Muskogee, Indian Territory, March 13, 1907.

Andrew P. Beal,
Utica, Indian Territory.

Dear Sir:

You are hereby advised that on February 27, 1907, the Secretary of the Interior affirmed the decision of this office of November 8, 1906, denying the application and petition for the enrollment of Joseph Beal as a citizen of the Choctaw Nation.

Respectfully,

Commissioner.

7-6045
W- 31

Muskogee, Indian Territory, March 13, 1907.

Thomas Yerman,
Attorney at Law,
Ardmore, Indian Territory.

Dear Sir:

You are hereby advised that on February 27, 1907, the Secretary of the Interior affirmed the decision of this office of November 1906, denying the application and petition for the enrollment of Joseph Beal as a citizen of the Choctaw Nation.

Respectfully,

Commissioner.

7-3045

V- 31

Muskogee, Indian Territory, March 13, 1907.

Mansfield, McMurray & Cornish,

Attorneys for Choctaw and Chickasaw Nations,
South McAlester, Indian Territory.

Gentlemen:

You are hereby advised that on February 27, 1907, the Secretary of the Interior affirmed the decision of this office of November 8, 1906, denying the application and petition for the enrollment of Joseph Beal as a citizen of the Choctaw Nation.

Respectfully,

Commissioner.

COPY

Muskogee, I.T., December 16, 1899.

Chas. McPherron, Esq.,
Caddo, Indian Territory.

Dear sir:

The Commission is in receipt of a birth certificate in the matter of the application for the enrollment of Joseph Beal, whose mother's name appears to be Bell Beal, and whose father is Andrew Beal. The field records of the Commission do not show that these parties have been listed for enrollment. The affidavits of the mother and attending physician were acknowledged before you. The child cannot be enrolled unless it can be found that the parents have been listed for enrollment. It is possible that the mother was enrolled prior to her marriage, and she would therefore appear under another name. Will you kindly furnish the Commission with such information as you have as to the identification of these parties?

Yours truly,

SIGNED *Tamm Dixby*
Acting Chairman.

Muskogee, I.T., December 16, 1899.

Mr. Andrew Beal,
Durant, Indian Territory.

Dear sir:

This office is in receipt of a birth certificate in the matter of the application for enrollment of your child Joseph Beal. Our records do not show that your wife, Bell Beal, the mother of Joseph, has been enrolled. If application was made by her you will please advise the Commission when, where, and under what name the application was made, in order that her rights may be ascertained. No action can be taken upon the enrollment of the child until this information is furnished.

Yours truly,

SIGNED

Acting Chairman.

COPY.

Mustang, Indian Territory, February 13, 1900.

Mr. Andrew Beal,

Silo, Indian Territory,

Dear Sir:

The Commission is in receipt of your letter of February 8, in the matter of the application for enrollment of your child, Joseph Beal, and in which you state that it is not through the mother but through yourself as father that you are making application for the enrollment of this child. It appears from the records of this Commission that the mother of your former children was one Brown Beal, while in the application for the enrollment of Joseph the mother's name appears as Bell Beal. There is filed with the records in this case a copy of the certificate and license of your marriage to Miss Brown Woods, and the Commission desires to understand whether the mother of Joseph Beal is the same woman as the mother of your former children. If she is not, it will be necessary for you to furnish the Commission with either the original or a certified copy of the marriage license and certificate of Andrew Beal and Bell Beal. Upon the receipt of this information and of the license and certificate, the matter of the enrollment of your child will receive proper attention.

Yours truly,

SIGNED *James D. Bixby*

Acting Chairman.

Choctaw 3560

COPY.

Muskogee, Indian Territory, October 12, 1905.

Andrew P. Beal,

Utica, Indian Territory,

Dear Sir:

Please advise this office the names and ages of all your children, if any of them are dead, mentioning which ones and the dates of their death. Also, if they are not all children of the same mother, give the name of the mother of each child.

This matter should receive immediate attention.

Respectfully,

SIGNED *Tame Eddy.*
Commissioner.

7-6045

Muskogee, Indian Territory, October 30, 1906.

Chief Clerk,
Choctaw Land Office,
Atoka, Indian Territory.

Dear Sir:

There is inclosed herewith for your information copy of
Choctaw roll card No. 6045, Joseph Beal and you are requested to
make duplicate card of this number in your possession conform to
this information.

Respectfully,

EB 1-30.

Commissioner.

7-6045

Muskogee, Indian Territory, October 30, 1906.

Chief Clerk,

Chickasaw Land Office,

Armore, Indian Territory.

Dear Sir:

There is inclosed herewith for your information copy of Choctaw roll card No. 6045 Joseph Beal, and you are requested to make duplicate card of this number in your possession conform to this information.

Respectfully,

EB 2-30.

Commissioner.

J.R.

DEPARTMENT OF THE INTERIOR.

WASHINGTON.

O.K.

L.RS.

I.T.D.

4196, 3142, 3146, -1907
3146, 3160, 4512, "
4592, 4552, 4746, "
7460, 24820, 1906.

February 27, 1907.

DIRECT.

Commissioner to the Five Civilized Tribes,

Muskogee, Indian Territory.

Sir:

Your decisions in the following Choctaw citizenship cases adverse to the applicants are hereby affirmed. Copies of Indian Office letters submitting your reports and recommending that the decisions be affirmed are inclosed.

Title of Case.

Date of Your
Letter of Transmittal.

Jacob Green,
Ethel Puckett,
Joseph Beal,
O. K. Pelleck,
Harry McEvers, et al.,
Dealie Cooper (Miss. Cho.),
Thomas A. Turner,
Louise Embry (Freedman),
Winnie D. Johnson, (Freedman),
Delila E. Perce et al.,

June 14, 1906.
November 12, 1906.
November 8, 1906.
November 10, 1906.
November 6, 1906.
December 15, 1906.
October 19, 1906.
January 16, 1907.
February 2, 1907.
June 21, 1906.

A copy hereof, and all the papers in the above mentioned cases have been sent to the Indian Office.

Respectfully,

Jesse E. Wilson,

Assistant Secretary.

10 inc. and 22 inc.
For Ind. Of., with
copy hereof.

A. F. No
~~2-22-07.~~

DE

-Copy-

Refer in reply to the following:

Land.
99054-1906.
D.C.12045.

DEPARTMENT OF THE INTERIOR.

OFFICE OF INDIAN AFFAIRS.

WASHINGTON.

February 12, 1907.

The Honorable,

The Secretary of the Interior.

Sir:

Referring to Department letter of July 10, 1906 (I.T.D. 2548), there is enclosed a report from the commissioner to the Five Civilized Tribes, dated November 8, 1906, transmitting the record relative to the application of Joseph Beal for enrollment as a citizen by blood of the Choctaw Nation.

On December 13, 1899, application was made to the Commission to the Five Civilized Tribes for the enrollment of Joseph Beal, as a citizen by blood.

On November 6, 1906, the Commissioner held that the applicant was not entitled to such enrollment.

The record shows that the applicant is the minor child of Andrew Beal, a white man, identified at No. 1473 on the final roll of citizens by intermarriage of the Choctaw Nation approved by the Department on August 23, 1905 and Bell Beal, a non-citizen.

Under the Departmental decision of July 10, 1906, I.T.D. 2548) in the case of William Jesse Bacon, the decision

of the Commissioner adverse to the applicant is recommended
for approval.

Very respectfully,

C. F. Larrabee,
Acting Commissioner.

H.R.D.- ML.

-Copy-

940/52
REFER IN REPLY TO THE FOLLOWING:

Land.
99054-1906

DEPARTMENT OF THE INTERIOR,

OFFICE OF INDIAN AFFAIRS,

WASHINGTON. February 12, 1907.

The Honorable,

The Secretary of the Interior.

Sir:

Referring to Department letter of July 10, 1906 (I.T.D. 2548), there is enclosed a report from the Commissioner to the Five Civilized Tribes, dated November 8, 1906, transmitting the record relative to the application of Joseph Beal for enrollment as a citizen by blood of the Choctaw Nation.

On December 13, 1899, application was made to the Commission to the Five Civilized Tribes for the enrollment of Joseph Beal, as a citizen by blood.

On November 6, 1906, the Commissioner held that the applicant was not entitled to such enrollment.

The record shows that the applicant is the minor child of Andrew Beal, a white man, identified at No. 1473 on the final roll of citizens by intermarriage of the Choctaw Nation approved by the Department on August 22, 1905 and Bell Beal, a non-citizen.

Under the Departmental decision of July 10, 1906, (I.T.D. 2548) in the case of William Jesse Bacon, the decision of the Commissioner adverse to the applicant is recommended for approval.

Very respectfully,

C. F. Larrabee,

Acting Commissioner.

H.R.D. - NL

3112

Choctaw 6046

Charles M. Avery

Refused Jan. 14, 1907

Trans. from Memo #233

10-16-06

6046

Memo. _____

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.
Muskogee, Indian Territory, June 21, 1906.

In the matter of the alleged application for the enrollment of Charles M. Avery as a citizen by intermarriage of the Choctaw Nation.

C. T. Mitchell, Attorney at Law, McCurtain, Indian Territory, appears on behalf of the applicant.

No appearance on behalf of the Choctaw and Chickasaw Nations.

CHARLES M. AVERY, being first duly sworn, testified as follows:

By the Commissioner:

- Q What is your name? A Charles M. Avery.
Q How old are you? A Born in 1840, be 66 years old my birthday.
Q What is your postoffice? A Spiro.
Q Have you ever personally appeared before the Commission or Commissioner to the Five Civilized Tribes and made application for enrollment as a citizen by intermarriage of the Choctaw Nation?
A No sir, never personally appeared before the Commission; when they first come in here at Spiro talked to one of the Commissioners there, just talked with him.

The records of this office show that no personal appearance has ever been made by the applicant before the Commission to the Five Civilized Tribes.

- Q Have you ever written to the Commission or the Commissioner to the Five Civilized Tribes relative to your rights as a citizen by intermarriage of the Choctaw Nation? A Sometimes I want write very well, I am so nervous, I had Mr. Bowman write for me.
Q When was that letter written? A Well sir I dont recollect, it has been some two or three years back.
Q To whom was that letter addressed? A Well I think he wrote to the Secretary of the Interior; he promised to write to the Dawes Commission for me when he commenced it.

Chas. M. Avery---2

- Q He wrote to the Secretary did he? A Yes sir, he got a notice from the Secretary, the Secretary returned all the papers to Mr. Bowman.
- Q In whose name was that letter written? A My name.
- Q He signed your name for you? A I think I signed it myself, as well as I recollect.
- Q What became of the papers that you sent? A The papers were sent back and he got 'em at his house and he went somewhere off on a trip, and he said when he come back he couldnt find them, said they was there, said when he come to hunt them up couldnt find them.
- Q Is that the only time that you have ever written about this matter? A Yes sir, I think so, my wife's talked a good many times about writing, but dont think she ever did.

The applicant offers in evidence letter bearing date of August 31, 1904, addressed to him at Spiro, Indian Territory, from the Department of the Interior, Washington, D.C.

- Q Did you ever get any other reply to that letter than the one received from the Department? A No sir.
- Q You didnt hear from the Dawes Commission? A No sir, never did hear from them, thought they would notify me to come up but they didnt.

On September 10, 1904, the Commission to the Five Civilized Tribes addressed a communication to C. M. Avery at Oklodge, Indian Territory. A copy of said letter is filed herewith and made a part of the record in this case.

- Q From whom do you claim your intermarried right? A Her name was Mary Jane Moore.
- Q What was she? A She was a Choctaw.
- Q How much? A Well sir, I couldnt tell you, her father was a Choctaw.
- Q Where were you married to her? A In Mississippi.
- Q What year? A In 1866---'67, maybe '67.
- Q What month? A I think it was in February, January 1867, 15th.
- Q Have you any evidence of that marriage with you? A Not with me, no sir, not here now.
- Q Have you got a marriage certificate? A No sir.
- Q Did you ever get one? A No sir, never saw one that I know of.
- Q Who married you? A The Justice of the Peace, John Lampkins.
- Q Did you give bond? A Yes sir.
- Q Who was present when you were married? A I couldnt tell you the names, some of the parties live in this country at the present time.
- Q Saw you married? A Two David Moores.
- Q Where does David Moore live? A Lives near Sewlinton; that is her brother, then she had a cousin David Moore; then there is others in this country was there, David Moore and Jack Moore.
- Q What county were you married in? A Neshoba County, Mississippi.

Chas. M. Avery----3

- Q You and your wife were both living in Mississippi at the time of your marriage? A Yes sir.
- Q When did you remove to the Choctaw Nation? A 1872, in October or November.
- Q What county in the Choctaw Nation did you come to? A Come to Skullyville County.
- Q Is your wife living? A No sir, she died in Skullyville County.
- Q When? A In '73, February 1873.
- Q What was the name of her father? A Jephtha Moore, signed his name J. M. Moore.
- Q Is he living? A No sir.
- Q Where did he die? A In Skullyville County.
- Q Choctaw Nation? A Yes sir.
- Q What year? A I think -- I don't know just what year he died in, been dead about ten years I think; her mother died here too.
- Q What was the name of her mother? A Milberry Moore.
- Q Was she a white woman? A Said to be; Jephtha Moore was a Choctaw.
- Q Did your wife have any brothers or sisters? A Yes sir-- no didn't have any sisters, had some brothers.
- Q Are any of them living? A Two brothers living.
- Q At this time? A Yes sir, was a few days ago.
- Q What are their names? A David Moore and Jackson Moore is her brothers.
- Q Where is David Moore living? A Cartersville, in Skullyville County.
- Q Where is Jackson Moore living? A Well he lives near Cartersville too, Skullyville County.
- Q Have they been finally enrolled? A Yes sir.
- Q Have they received allotments? A I think they was, yes sir, that is my understanding.
- Q Were David and Jackson Moore your wife's full brothers? A Yes sir.
- Q Had the same father and mother? A Yes sir.
- Q Since you came to the Choctaw Nation in 1872 have you lived any place else? A Never have lived anywhere else.
- Q Always lived in Indian Territory? A That has been my home ever since.
- Q Ever been in Texas? A Have been in Texas, not since I been in Indian Territory.
- Q I mean make your home? A No never made my home anywhere since I moved to the Choctaw Nation; I lived in Sugarloaf County and Skullyville County, two counties I have lived in since I come to the Choctaw Nation.
- Q Have you been enrolled by the Choctaw tribal authorities? A I don't know sir, I think it was May in '96 I went to see if I could get on the roll.
- Q Did you draw any of the 1893 leased district money? A No sir, claimed I was married to a white woman, said it knocked me out.
- Q After your wife died did you marry again? A Yes sir.
- Q Who did you marry? A Nellie--Mary Hickman, Mary Hickman.
- Q She a white woman? A Her mother claimed to be a Choctaw, went to the Choctaw Council to try to prove up her right.
- Q Never did, did she? A No sir, never got fixed up.
- Q Were you ever married before you married Mary Jane Moore? A No sir.
- Q Was she ever married before that? A No sir.
- Q When did your wife's father come to the Choctaw Nation, Indian Territory? A In 1872, I came with him.

Chas. N. Avery-----4

- Q Was he admitted by an act of the Choctaw Council? A Yes sir.
Q Was your wife? A Well, that was my understanding that she was after her death my understanding she was.
Q Did she ever apply to the Choctaw Council? A Her father took her name and all his children's names and went to the council.
Q What action was taken on it? A Well sir, I cant tell you, they carried it before the Supreme Court of the Choctaw Nation.
Q Do you know whether or not that she was ever admitted? A I dont know whether she was ever admitted-- to say I know it-- about the time, just before the council, Jeptha Moore's oldest son and Jeptha Moore, that is my mother-in-law-- there was three I think-- and Stephen Moore, my brother-in-law-- his wife and his oldest son died a while before the council-- I dont know whether he got his paper before they died or not.

WITNESS EXCUSED.

Cora Moore being first duly sworn states that as stenographer to the Commissioner to the Five Civilized Tribes she reported the proceedings had in the above entitled cause on the 21st day of June, 1906, and that the above and foregoing is a full, true and correct transcript of her stenographic notes taken in said cause on said date.

Cora Moore

Subscribed and sworn to before me this 23rd day of June, 1906.

Edward H. Morris
Notary Public.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

ITD. 7363-1904.

M.

LRS

August 31, 1904.

Mr. C. M. Avery,
Spiro, Indian Territory.

Sir:

Your application for enrollment as a citizen of the
Choctaw Nation by reason of intermarriage, has been referred to
the Dawes Commission for appropriate action.

Respectfully,

(Signed) Edward M. Dawson
Chief Clerk.

Muskogee, Indian Territory, September 10, 1904.

C. M. Avery,
Care of J. H. Bowman,
Oaklodge, Indian Territory.

Dear Sir:

Receipt is hereby acknowledged of your letter of August 18, 1904 addressed to the Secretary of the Interior and by him referred to this Commission for consideration and appropriate reply. You inclose therein a statement by J. H. Bowman, Notary Public, also a notice of your appointment as road over-seer in Skullyville County, Choctaw Nation, and state that you married Jane Moore, a Choctaw Indian in the state of Mississippi in 1867 and emigrated to the Choctaw Nation in 1871 where you have since resided.

You are advised that the information contained in your letter is not sufficient to enable the Commission to identify you as an applicant for enrollment as an intermarried citizen of the Choctaw Nation and the papers forwarded by you are returned you herewith.

Respectfully,

(Signed) Tams Bixby,

Chairman.

Enc. H, B, XII.

David N. Moore being duly sworn deposes and says:-

My name is David N.

Moore. My Post Office is Cartersville. My age is 60 years. I know C. M. Avery, who is an applicant for enrollment as a citizen by intermarriage of the Choctaw Nation, by virtue of his marriage to Jane Moore, a citizen by blood of the Choctaw Nation. C. M. Avery and Jane Moore, were married January the 15th 1867, Jane Moore was the daughter of Jeptha Moore, and a sister to Jackson and David Moore, who are enrolled as Citizens by blood of the Choctaw Nation. C. M. Avery is a white man and not a member of any Indian tribe by blood.

Witness my hand this the 28 day of June 1906.

(Signed) D. N. Moore.

Subscribed and sworn to before me this the 28 day of June, 1906.

(Signed) E. J. Smith,

Notary Public.

(SEAL)

My commission expires on the 5 day of Jany - 1909.

Department of the Interior,
Commissioner to the Five Civilized Tribes.
Filed Jul. 17, 1906.
Tame Bixby, Commissioner.

David A. Moore, being duly sworn, deposes and says:-

My name is David A. Moore. My Post Office is Cartersville, Ind. Ter. I know C. M. Avery, I knew his wife, Jane Moore, she was my sister. She and Mr. Avery were married on the 15th of January, 1867. I was present and saw them married. I am a citizen by blood of the Choctaw Nation and am duly enrolled as such and have selected my allotment. C. M. Avery is a white man. Witness my hand this the 28 day of June 1906.

(Signed) David A. Moore.

Subscribed and sworn to before me this the 28 day of June 1906.

(Signed) L. J. Smith,

Notary Public.

My commission expires on the 5 day of Jany - 1909.

Department of the Interior,
Commissioner to the Five Civilized Tribes,
Filed Jul. 17, 1906.
Tams Bixby, Commissioner.

Memo. 233.
O.L.J.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

p
In the matter of the alleged application for the enrollment of Charles M. Avery as a citizen by intermarriage of the Choctaw Nation.

DECISION.

It appears from the record herein that on June 21, 1906, Charles M. Avery appeared before the Commissioner to the Five Civilized Tribes and presented testimony relative to an application alleged to have been made for his enrollment as a citizen by intermarriage of the Choctaw Nation, within the time limited by the provisions of the Act of Congress approved April 26, 1906 (34 Stats., 137).

It does not appear from the records in the possession of this office that any formal application has ever been made for the enrollment of said applicant as a citizen by intermarriage of the Choctaw Nation prior to December 1, 1905. It appears, however, that on September 10, 1904, the Commission to the Five Civilized Tribes acknowledged the receipt of a letter from the applicant dated August 18, 1904, addressed to the Secretary of the Interior, and by the latter referred to said Commission for consideration and appropriate action. Therein the applicant stated that he was married to Jane Moore, a Choctaw Indian, in the State of Mississippi in 1867, and emigrated to the Choctaw Nation in 1871, where he has since resided. Said Commission advised the applicant that the information contained in said letter was insufficient to identify him as an applicant for enrollment as a citizen by intermarriage of the Choctaw Nation.

I am of the opinion that the letters above referred to constitute a sufficient application for the enrollment of Charles M. Avery as a citizen by intermarriage of the Choctaw Nation, made within the time limited by the provisions of the Act of Congress approved April 26, 1906 (34 Stats., 137), and that the same should now be determined upon its merits, and it is so ordered.



Commissioner.

Muskogee, Indian Territory,

OCT 19 1906

6046.
7-645.

DEPARTMENT OF THE INTERIOR.
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.
MUSKOGEE, INDIAN TERRITORY, NOVEMBER 22, 1906.

-----000-----

In the matter of the application for the enrollment of
Charles M. Avery as a citizen by intermarriage of the Choctaw
Nation.

APPEARANCES:

C. T. Mitchell, Attorney at law, McCurtain, Indian
Territory, appeared for the applicant.
No appearance on the part of the Choctaw and Chickasaw
Nations.

ANDREW J. MOORE, being first duly sworn by H. G. Haines, testified
as follows:

(Examination by the Commissioner)

- Q What is your name? A Andrew J. Moore.
Q How old are you? A 46.
Q What is your post office address? A Keota, I. T.
Q Are you acquainted with Charles M. Avery, who has made appli-
cation for enrollment as a citizen by intermarriage of the
Choctaw Nation? A Yes sir.
Q Do you know through whom Charles M. Avery claims his right to
enrollment as a citizen by intermarriage of the Choctaw
Nation? A Yes sir.
Q Who? A My sister.
Q What was her full name? A Tabitha Jane Moore. I don't
know whether they have it that way on the application, but
that was her name, they may have it here only Jane, but that
was her name, Tabitha Jane.
Q It gives her name as Mary Jane Moore. A Not to the best
of my knowledge. Mary Jane Tabitha.
Q Where were you born, Mr. Moore. A In Mississippi.
Q In what County? A Neshoba.
Q When did you come to the Choctaw Nation? A I came in '69
or '70, I don't remember, 1869, I think.
Q Were you subsequently admitted by an act of the Choctaw Council?
A Yes sir, by the Supreme Court, I believe.
Q By the Supreme Court of the Choctaw Nation? A Yes sir.

Charles M. Avery---2.

- Q As a descendant of Jephtha Moore? A Yes sir.
- Q Was your sister, Mary Jane Tabitha Moore, included in that judgment? A I don't know.
- Q Have you a copy of that judgment? A No sir.
- Q And it is by virtue of that judgment that you have been finally enrolled as a citizen by blood of the Choctaw Nation?
- A Yes sir:
- Q When did your sister come to the Choctaw Nation? A In '69 or '70, I don't know which.
- Q Mr. Avery states that he came here in 1872. A Well, to the best of my knowledge we came here in '69 or '70, but I think it was one of these--I was small.
- Q When was this judgment rendered by the Supreme Court of the Choctaw Nation, admitting you to citizenship in the Choctaw Nation? A I don't remember that, a few years after we came, I don't remember.
- Q You are unable to state then, are you, whether or not your sister has ever been recognized as a citizen of the Choctaw Nation in the Indian Territory? A She died directly after we came here and I cannot say whether we was approved of then-- I think we was approved of when she died--yes I am confident we was approved of before she died.
- Q Do you know when Mr. Avery was married to your sister?
- A I could not give the date of that either. I know it was some three or four years before we left Mississippi.
- Q Were you present at the marriage? A Yes sir.
- Q Who performed the ceremony? A I don't know--I don't remember that--I remember seeing the wedding, though.

(Question addressed to Mr. Mitchell)

- Q Mr. Mitchell, do you recollect that Mr. Avery testified on his appearance here on June 21, 1906 that he was married in Neshoba County, Mississippi, by John Lampkin, a Justice of the Peace; since that time have you made any effort to secure a certified copy of the marriage certificate as filed in Neshoba County, Mississippi?
- A I've asked him to make an effort.
- Q Is it your intention to introduce secondary evidence without first making an effort to secure the original papers?
- A An effort has been made, I am informed.

(To the witness)

- Q What were the names of your father and mother? A My father and mother? Milberry Moore is my mother's name and Jephtha E. is my father's.
- Q He is the man who was admitted by the Supreme Court of the Choctaw Nation? A Yes sir.
- Q Was your sister, Mary Jane Tabitha, your full sister? A Yes sir.
- Q Same father and same mother? A Yes sir.

The witness is identified upon Choctaw Field Card, No. 2760, opposite No. 8079, approved by the Secretary of the Interior, January 17, 1903.

The witness was admitted by the Supreme Court of the

Choctaw Nation by a judgment of the Supreme Court of the Choctaw Nation, April Term, 1874.

Mr. Mitchell, you may take the witness.

(By Mr. Mitchell)

That is all, Mr. Moore.

Witness excused.

DAVID A. MOORE, being first duly sworn by H. G. Haines, testified as follows:

(By the Commissioner)

- Q What is your name? A David A. Moore.
- Q How old are you, Mr. Moore? A 50.
- Q What is your post office address? A Bokosha, I. T.
- Q Are you acquainted with Charles M. Avery? A Yes sir.
- Q How long have you known him? A I have known him ever since 1864--long about during the war--long about war times.
- Q Where did you make his acquaintance? A In Mississippi.
- Q In what county? A Neshoba.
- Q Did he marry your sister? A Yes sir.
- Q What is your sister's full name? A Mary Jane Tabitha, or Mary Jane.
- Q Were you present at the time she was married? A Yes sir.
- Q Who married her? A This fellow, Lumpkins.
- Q What is the date of that marriage? A What is the date, you say?
- Q Yes, AI don't recollect, it has been a long time ago, it was in 1867 I was thinking it was in '66 and told the attorney so, but I think it was in '67, it has been so long. It was directly after the war.
- Q When did you come to the Choctaw Nation? A I think, I guess it was in 1870, we lived in Mississippi.
- Q Did you come with your father?
- A I think we got here in 1870, I think was the year we got here in.
- Q Did you come here with your father? A Yes, I was small, we all came here together.
- Q Did your father then make application to the Supreme Court of the Choctaw Nation for admission to citizenship? A Yes sir.
- Q What action was taken on that? A Well, it was approved.
- Q Have you a copy of the judgment admitting your father to citizenship in the Choctaw Nation? A No sir, no sir, I aint--I don't know whether I have got it or not. We had it, I sort of believe that I have.
- Q When did Mr. Avery and your sister come to the Choctaw Nation?
- A We all came together from Mississippi.
- Q She came here with you? A Yes sir, we all moved out here to this country together.

Charles M. Avery---4.

- Q How old was your sister when she was married to Mr. Avery?
A Well, I don't hardly recollect. I think, as well as I recollect, she was about 19.
Q When did she die? A She died in 1873.
Q Was that before or after the judgment of the Supreme Court of the Choctaw Nation? A Well, I think as well as I recollect it was before, I think she died in time, we had put in our application, but it runs into my mind that it was before. I think she died maybe before, I don't hardly recollect. She died about the time that we made out application to the Supreme Court.
Q But before it was acted upon? A Yes sir, I think she died before it was acted upon.
Q Did Mr. Avery ever have any children by your sister?
A No sir.

(The witness is turned over to Mr. Mitchell)

(By Mr. Mitchell)

That is all. I don't care to ask any questions.

Witness excused.

Kate DeBord, stenographer to the Commissioner to the Five Civilized Tribes, being first duly affirmed, states that she correctly reported all proceedings had in the above entitled and numbered cause on the 22nd day of November, 1906, and that the above and foregoing is a full, true and correct transcript of her stenographic notes taken therein on said date.

Kate DeBord

Subscribed and affirmed to before me this 22nd day of November, 1906.

Walter W. Chappell
Notary Public.

Memo-233.

Muskogee, Indian Territory, October 15, 1906.

Charles M. Avery,

Spiro, Indian Territory.

Dear Sir:-

You are advised that before any further action can be taken in the matter of your application for enrollment as a citizen by intermarriage of the Choctaw Nation, it will be necessary that testimony be introduced showing that Mary Jane Moore, through whom you claim your right to enrollment as a citizen by intermarriage of the Choctaw Nation, was a recognized Choctaw Indian. Testimony of witnesses who have personal knowledge of your marriage to said Mary Jane Moore would also be introduced.

Similar notice has this day been forwarded your attorney, C. T. Mitchell, at McCurtain, Indian Territory.

Respectfully,

Commissioner.

Memo-233.

Muskogee, Indian Territory October 15, 1906.

C. T. Mitchell,

Attorney at Law,

McCurtain, Indian Territory.

Dear Sir:-

In the matter of the application for the enrollment of Charles M. Avery as a citizen by intermarriage of the Choctaw Nation, you are advised that before any further action can be taken therein, it will be necessary that testimony be introduced showing that Mary Jane Moore, was a recognized Choctaw Indian, and also witnesses should be presented who have personal knowledge of the marriage of said applicant to the said Mary Jane Moore.

Before such appearance is made notice should be served upon Mansfield, McMurray & Cornish, attorneys for the Choctaw and Chickasaw Nations.

Respectfully,

Commissioner.

7-6046.
O.L.J.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of Charles M. Avery as a citizen by intermarriage of the Choctaw Nation.

D E C I S I O N .

It appears from the record herein that application was duly made for the enrollment of Charles M. Avery as a citizen by intermarriage of the Choctaw Nation within the time limited by the provisions of the Act of Congress approved April 26, 1906 (34 Stats., 137).

The applicant claims his right to enrollment as a citizen by intermarriage of the Choctaw Nation by virtue of his marriage in the state of Mississippi on January 15, 1867, to Mary Jane Moore, who died in 1873, and who was the full sister of David A. Moore, who was admitted to citizenship in the Choctaw Nation by a decree of the Supreme Court of the Choctaw Nation in 1874, during the April term of said court, and whose name appears as No. 8079 upon the final roll of citizens by blood of the Choctaw Nation approved by the Secretary of the Interior January 17, 1903.

It further appears from the record in this case that Charles M. Avery and his wife, Mary Jane Moore, after residing together in the state of Mississippi until 1869 or 1870, removed to the Choctaw Nation, Indian Territory, where they resided together continuously as husband and wife until the death of said Mary Jane Moore.

It does not appear from the record herein or from the records in the possession of this office that either the applicant or Mary Jane Moore, through whom said applicant claims his intermarried rights, has ever been recognized or enrolled as a citizen of the Choctaw Nation, or admitted to Choctaw citizenship by any duly constituted Court or Committee of said nation.

I am of the opinion that inasmuch as Mary Jane Moore, through whom the applicant claims his intermarried rights, was not a recognized citizen by blood of the Choctaw Nation, she was not capable of conferring intermarried rights on the applicant, Charles M. Avery, and that, therefore, his application for enrollment as a citizen by intermarriage of the Choctaw Nation should be denied, under the provisions of the Act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered.

Muskegee, Indian Territory,

JAN 16 1907


Commissioner.

7-6046.

Muskogee, Indian Territory, January 16, 1907.

C. M. Avery,

c/o J. H. Bowman,

Oaklodge, Indian Territory.

Dear Sir:

Inclosed herewith you will find a copy of the decision of the Commissioner to the Five Civilized Tribes, rendered January 16, 1907, denying the application for the enrollment of Charles M. Avery as a citizen by intermarriage of the Choctaw Nation.

The decision, with the record of proceedings in the case, is this day transmitted to the Secretary of the Interior for review. The final decision of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

SIGNED

Tamc Kirby

Commissioner.

Registered.

Incl. 7-6046.

7-6046.

COPY

Muskogee, Indian Territory, January 16, 1907.

C. T. Mitchell,
Attorney at Law,
McCurtain, Indian Territory.

Dear Sir:

Inclosed herewith you will find a copy of the decision of the Commissioner to the Five Civilized Tribes, rendered January 16, 1907, denying the application for the enrollment of Charles M. Avery as a citizen by intermarriage of the Choctaw Nation.

The decision, with the record of proceedings in the case, is this day transmitted to the Secretary of the Interior for review. The final decision of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

SIGNED *Tamc Kirby*
Commissioner.

Registered.

Incl. 7-6045.

7- 6046.

COPY

Muskogee, Indian Territory, January 16, 1907.

Manefield, McMurray & Cornish,

Attorneys for the Choctaw and Chickasaw Nation.

South McAlester, Indian Territory.

Gentlemen:

Inclosed herewith you will find a copy of the decision of the Commissioner to the Five Civilized Tribes, rendered January 16, 1907, denying the application for the enrollment of Charles M. Avery as a citizen by intermarriage of the Choctaw Nation.

The decision, with the record of proceedings in the case, is this day transmitted to the Secretary of the Interior for review. The final decision of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

James Bixby

Commissioner.

Incl. 7-6046.

COPY

7-6046.

Muskogee, Indian Territory, January 16, 1907.

The Honorable,

The Secretary of the Interior.

Sir:

There is transmitted herewith a record of proceedings in the matter of the application for the enrollment of Charles M. Avery as a citizen by intermarriage of the Choctaw Nation, including the decision of the Commissioner to the Five Civilized Tribes, dated January 16, 1907, denying said application.

Respectfully,

SIGNED *James Bixby*
Commissioner.

2 Incl. 7-6046.

Through the
Commissioner of Indian Affairs.

D. C. 12436-1907.

JP. 4
VTE.

DEPARTMENT OF THE INTERIOR,

WASHINGTON. February 28, 1907.

LRS.

I. T. D.

4886, 4876, 4882, 4884, 4886-07.

4972, 4978, 4986, 4992, 5002-

5008, 5014, 5094, 5100, 5112-

5122, 5096,

DIRECT.

Commissioner to the Five Civilized Tribes,

Muskogee, Indian Territory.

Sir:

Your decisions in the following Choctaw citizenship cases adverse to the applicants are hereby affirmed, viz:

Title of Case.	Date of your letter of transmittal.
Merrill and Elizabeth Jackson (Freedmen)	February 2, 1907.
Teddy Beon Brown,	January 10, 1907.
Clarence R. Pickens,	January 9, 1907.
Dallas Edgar Betts,	November 28, 1906.
Dottie May Brimage,	November 28, 1906.
Cleore Henry Bernard,	December 21, 1906.
James Jackson,	November 8, 1906.
Charles M. Avery (Intermarried)	January 16, 1907.
Lewis Elodge,	January 9, 1907.
Dick Woodell, et al.,	January 26, 1907.
Willie O. and Samuel B. McFadden,	January 16, 1907.
Ernest L. Werthy, et al.,	December 1, 1906.
Frank Wise, et al.,	January 30, 1907.
Hatty Dell Louise McCarty,	January 16, 1907.
Willis Edmund Negroves,	January 23, 1907.
Jack Fulton,	December 21, 1906.
Larence Shells, (freedman),	February 9, 1907.

Copies of Indian Office letters submitting your reports and recommending that the decisions be approved are inclosed.

-2-

A copy hereof and all the papers in the above-mentioned cases have been sent to the Indian Office.

Respectfully, Jesse E. Wilson.
Assistant Secretary.

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34 for Ind. Of.

APMc.
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Land
6928-1907.

)Copy-

DEPARTMENT OF THE INTERIOR
OFFICE OF INDIAN AFFAIRS
WASHINGTON

February 25, 1907.

The Honorable,

The Secretary of the Interior.

Sir:

There is enclosed a report from the Commissioner to the Five Civilized Tribes, dated January 16, 1907, transmitting the record relative to the application for enrollment of Charles W. Avery as a citizen by intermarriage of the Choctaw Nation, made within the time limited by the provisions of the Act of April 26, 1906 (34 Stat. L., 137). On January 16, 1907, the Commissioner to the Five Civilized Tribes held that the applicant was not entitled to enrollment.

The record shows that the applicant claims his right to enrollment by virtue of his marriage in the State of Mississippi on January 15, 1867 to Mary Jane Moore, who died in 1873, and who was the full sister of David A. Moore, who was admitted to citizenship in the Choctaw Nation in 1874 by the Supreme Court of the United States.

It further appears from the record that Charles W. Avery and his wife Mary Jane Moore, after residing together in the State of Mississippi until 1869 or 1870, removed to the Choctaw Nation, where they resided together continuously as husband and wife until the death of Mary Jane Moore.

It does not appear from the record, and Commissioner Birby

says that the records in the possession of his office do not show that either the applicant or Mary Jane Moore has ever been recognized or enrolled as a citizen of the Choctaw Nation or admitted to citizenship by any duly constituted court or committee.

Under the provisions of the Act of June 28, 1898 (30 Stat. L. 495), the applicant is not entitled to enrollment.

It is therefore recommended that the decision of the Commission adverse to the applicant be approved.

Very respectfully,

C. F. Larrabee,

Acting Commissioner.

7-6046

Muskogee, Indian Territory, April 16, 1907.

C. W. Avery,

c/o J. H. Bowman,

Oaklodge, Indian Territory.

Dear Sir:

You are hereby advised that on February 28, 1907, the Secretary of the Interior affirmed the decision of this office of January 16, 1907, denying the application for the enrollment of Charles W. Avery as a citizen by intermarriage of the Choctaw Nation.

Respectfully,

Commissioner.

7-6046

Muskogee, Indian Territory, April 16, 1907.

C. T. Mitchell,

Attorney at Law,

Muscogee, Indian Territory.

Dear Sir:

You are hereby advised that on February 28, 1907, the Secretary of the Interior affirmed the decision of this office of January 16, 1907, denying the application for the enrollment of Charles M. Avery as a citizen by intermarriage of the Choctaw Nation

Respectfully,

Commissioner.

7-6046

Muskogee, Indian Territory, April 16, 1907.

Mansfield, McMurray & Cornish,

Attorneys for Choctaw and Chickasaw Nations,
South McAlester, Indian Territory.

Gentlemen:

You are hereby advised that on February 28, 1907, the Secretary of the Interior affirmed the decision of this office of January 16, 1907, denying the application for the enrollment of Charles M. Avery as a citizen by intermarriage of the Choctaw Nation.

Respectfully,

Commissioner.

-Copy-

REFER IN REPLY TO THE FOLLOWING:

Land.
6928-1907

DEPARTMENT OF THE INTERIOR,

OFFICE OF INDIAN AFFAIRS,

WASHINGTON. February 25, 1907.

The Honorable,

The Secretary of the Interior.

Sir:

There is enclosed a report from the Commissioner to the Five Civilized Tribes, dated January 16, 1907, transmitting the record relative to the application for enrollment of Charles M. Avery as a citizen by intermarriage of the Choctaw Nation, made within the time limited by the provisions of the Act of April 26, 1906 (34 Stat. L., 137). On January 16, 1907, the Commissioner to the Five Civilized Tribes held that the applicant was not entitled to enrollment.

The record shows that the applicant claims his right to enrollment by virtue of his marriage in the State of Mississippi on January 15, 1867 to Mary Jane Moore, who died in 1873, and who was the full sister of David A. Moore, who was admitted to citizenship in the Choctaw Nation in 1874 by the Supreme Court of the United States.

It further appears from the record that Charles M. Avery and his wife Mary Jane Moore, after residing together in the State of Mississippi until 1869 or 1870, removed to the Choctaw Nation, where they resided together continuously as husband and wife until the death of Mary Jane Moore.

It does not appear from the record, and Commissioner Bixby

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says that the records in the possession of his Office do not show that either the applicant or Mary Jane Moore has ever been recognized or enrolled as a citizen of the Choctaw Nation or admitted to citizenship by any duly constituted court or committee.

Under the provisions of the Act of June 28, 1898 (30 Stat. L. 495), the applicant is not entitled to enrollment.

It is therefore recommended that the decision of the Commission adverse to the applicant be approved.

Very respectfully,

C. F. Larrabee,

Acting Commissioner.

J.P.R. - NL

7-6046

Muskogee, Indian Territory, October 25, 1906.

Chief Clerk,

Chickasaw Land Office,

Ardmore, Indian Territory.

Dear Sir:

There is inclosed herewith copy of Choctaw card No. 6046 Charles M. Avery, and you are directed to make duplicate copy of this card in the possession of your office conform to this information.

Respectfully,

EB 7-25.

Commissioner.

7-6046

Muskogee, Indian Territory, October 25, 1906.

Chief Clerk,

Choctaw Land Office,

Atoka, Indian Territory.

Dear Sir:

There is inclosed herewith copy of Choctaw card No. 6046 Charles M. Avery, and you are directed to make duplicate copy of this card in the possession of your office conform to this information.

Respectfully,

EB 6-25.

Commissioner.

Nemo. 233

Muskogee, Indian Territory, July 21, 1906.

Charles T. Mitchell,
Attorney at Law,
McCurtain, Indian Territory.

Dear Sir:-

Receipt is hereby acknowledged of your letter of July 6, 1906, enclosing affidavits of David H. Moore and David A. Moore which you offer in support of the application of C. M. Avery for enrollment as an intermarried citizen of the Choctaw Nation, and same have been filed in the matter of the alleged application for the enrollment of Charles H. Avery as a citizen by intermarriage of the Choctaw Nation.

Respectfully,

Commissioner.

Memo. 110
7-6008
7-6046
7-6047

Muskogee, Indian Territory, November 12, 1906.

C. T. Mitchell,
Attorney at Law,
McCurtain, Indian Territory.

Dear Sir:

Receipt is hereby acknowledged of your letter of November 7, 1906, in which you state that you will introduce testimony in support of the applications of Mollie Livingston, C. M. Avery, Mollie Harris and Mary E. Price for enrollment as intermarried citizens of the Choctaw Nation on November 22, 1906 and have served notice on Mansfield, McMurray & Cornish of the date of taking such testimony. You therefore ask that action be withheld in these cases until that date.

In reply you are advised that no further action will be taken in these cases until after that date.

Respectfully,

Commissioner.

7-6046.

Muskogee, Indian Territory, January 10, 1907.

David A. Moore,

Bokoshe, Indian Territory.

Dear Sir:-

November 22, 1906, you appeared before this office and gave testimony relative to the application for the enrollment of Charles M. Avery as a citizen by intermarriage of the Choctaw Nation, said applicant claiming his right to enrollment as such citizen by reason of his marriage to your sister, Mary Jane Moore.

At said time you testified that you believed that you were in possession of the judgment of the Supreme Court of the Choctaw Nation, rendered in April 1874 admitting you and the other members of your family as citizens of the Choctaw Nation. If you are in possession of the copy of said decree, you are requested to forward same to this office not later than the 15th instant.

It is imperative that you give this matter your immediate attention inasmuch as under the provisions of the Act of Congress approved April 26, 1906 (34 Stats., 137), the Secretary of the Interior is without authority to approve the enrollment of any person subsequent to March 4, 1907.

Respectfully,

Commissioner.

B. C. 12436-1907.

JP.
YHR.

DEPARTMENT OF THE INTERIOR,

WASHINGTON.

February 28, 1907.

LRS.

I. T. D.

4886, 4876, 4882, 4884, 4886-07.

4972, 4978, 4986, 4992, 5002- "

5008, 5014, 5094, 5100, 5112- "

5122, 5096, - "

DIRECT.

Commissioner to the Five Civilized Tribes,

Muskogee, Indian Territory.

Sir:

Your decisions in the following Choctaw citizenship cases adverse to the applicants are hereby affirmed, viz:

Title of Case.	Date of your letter of transmittal.
Merrill and Elizabeth Jackson (Freedmen)	February 2, 1907.
Teddy Boon Brown,	January 10, 1907.
Clarence R. Pickens,	January 9, 1907.
Dallas Edgar Betts,	November 28, 1906.
Dottie May Brimage,	November 28, 1906.
Cicero Henry Bernard,	December 21, 1906.
James Jackson,	November 8, 1906.
Charles M. Avery (Intermarried)	January 16, 1907.
Lewis Sledge,	January 9, 1907.
Dick Woodell, et al.,	January 26, 1907.
Willie O. and Samuel S. McFadden,	January 16, 1907.
Ernest L. Worthy, et al.,	December 1, 1906.
Frank Wise, et al.,	January 30, 1907.
Matty Dell Louise McCarty,	January 16, 1907.
Willis Minnie Segreves,	January 23, 1907.
Jack Fulton,	December 21, 1906.
Larence Shoals, (freedman),	February 9, 1907.

Copies of Indian Office letters submitting your reports and recommending that the decisions be approved are inclosed.

-2-

A copy hereof and all the papers in the above-mentioned cases have been sent to the Indian Office.

Respectfully, Jesse E. Wilson.
Assistant Secretary.

17 inc. and
34 for Ind. Of.

APNo.
1-1-07.

Land
6928-1907.

Copy-

DEPARTMENT OF THE INTERIOR
OFFICE OF INDIAN AFFAIRS
WASHINGTON

February 25, 1907.

The Honorable,

The Secretary of the Interior.

Sir:

There is enclosed a report from the Commissioner to the Five Civilized Tribes, dated January 16, 1907, transmitting the record relative to the application for enrollment of Charles M. Avery as a citizen by intermarriage of the Choctaw Nation, made within the time limited by the provisions of the Act of April 26, 1906 (34 Stat. L., 137). On January 16, 1907, the Commissioner to the Five Civilized Tribes held that the applicant was not entitled to enrollment.

The record shows that the applicant claims his right to enrollment by virtue of his marriage in the State of Mississippi on January 15, 1867 to Mary Jane Moore, who died in 1873, and who was the full sister of David A. Moore, who was admitted to citizenship in the Choctaw Nation in 1874 by the Supreme Court of the United States.

It further appears from the record that Charles M. Avery and his wife Mary Jane Moore, after residing together in the State of Mississippi until 1869 or 1870, removed to the Choctaw Nation, where they resided together continuously as husband and wife until the death of Mary Jane Moore.

It does not appear from the record, and Commissioner Bixby

says that the records in the possession of his office do not show that either the applicant or Mary Jane Moore has ever been recognized or enrolled as a citizen of the Choctaw Nation or admitted to citizenship by any duly constituted court or committee.

Under the provisions of the Act of June 28, 1898 (30 Stat. L. 495), the applicant is not entitled to enrollment.

It is therefore recommended that the decision of the Commission adverse to the applicant be approved.

Very respectfully,

C. F. Larrabee,

Acting Commissioner.

Choctaw 6047
Mollie Livingston

Granted Jan. 18, 1907

Trans. from Memo[#]232 10, 1906

6047

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment as a
citizen by intermarriage of the Choctaw Nation.....OF.....

MOLLIE LIVINGSTON.....Memo-232.

2-6849

24
Muskogee, Indian Territory, January ~~15~~, 1907.

In the matter of the application for the enrollment of
Mollie Livingston
as a citizen of the Choctaw Nation. 6047

Service of a copy of the decision of the Commissioner to
the Five Civilized Tribes rendered on January 18 1907, to-
gether with the customary fifteen days within which to protest
against the said decision is hereby waived.

Manfield M. Murray Bernish
Attorneys for the Choctaw and Chickasaw Nation.

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Memo. _____

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.
Muskogee, Indian Territory, June 21, 1906.

In the matter of the alleged application for the enrollment of
Mollie Livingston as a citizen by intermarriage of the Choctaw Nation.

C. T. Mitchell, Attorney at Law, McCurtain, Indian Territory,
appears on behalf of the applicant.

No appearance on behalf of the Choctaw
and Chickasaw Nations.

MOLLIE LIVINGSTON, being first duly sworn, testified as follows:

By the Commissioner:

- Q What is your name? A Mollie Livingston.
Q How old are you? A 39 years old.
Q What is your postoffice? A Sutter, Indian Territory.
Q Do you claim rights as a citizen by intermarriage of the Choctaw Nation? A Yes sir.
Q Have you ever made application to the Commission or the Commissioner to the Five Civilized Tribes for enrollment as a citizen by intermarriage of the Choctaw Nation-- this is your first appearance before this office? A Yes sir.
Q Have you ever written any letters to this office relative to your rights to enrollment as a citizen by intermarriage of the Choctaw Nation? A No sir, never written any here.
Q Have you ever requested anyone to write to this office about your right? A Yes sir.
Q Who did you ask? A Well I taken my daughter to Skullyville to try to get her on the roll-- I got my brother Dr. E. Sheppard to write the letters.
Q Did he write for you? A He said he did.
Q When was that letter written? A A little over two years ago.
Q In what year-- 1905, 1904 or 1903, when? A I dont remember.
Q Did you see the letter that he wrote? A No sir, just told him to write up here, all there was about it.
Q Dont know whether he did or not? A No sir, he promised me that he would.

- Q Has anyone else ever written in your behalf? A No sir.
- Q Never requested anyone else to write? A No sir, didnt think there was any chance.
- Q Never consulted anybody about it? A Yes sir, I talked right smart about it, never did try to do anything-- went a good many years ago when my daughter was small--
- Q Did you ever request C. T. Mitchell to write for you? A Last year I did.
- Q What time? A 'Long in May, somewheres along in there, dont remember just what month now.
- Q Do you know whether or not Mr. Mitchell wrote to this office? A I suppose he did.
- Q Did you see the letter? A No sir.
- Q Did you request him to write? A Yes sir.

On September 1, 1905 there was received by the Commissioner to the Five Civilized Tribes a letter, dated McCurtain, Indian Territory, August 30, 1905, from C. T. Mitchell, wherein he requests that Mollie Livingston be permitted to make application for enrollment as a citizen by intermarriage of the Choctaw Nation. A copy of said letter is filed herewith and made a part of the record in this case.

Applicant offers in evidence letter of September 6, 1905, addressed to Charles T. Mitchell, Attorney at Law, McCurtain, Indian Territory, from the Commissioner to the Five Civilized Tribes. Same is filed and made a part of the record in this case.

- Q Where were you born? A Born in Alabama.
- Q When did you come to the Choctaw Nation? A Skullyville County.
- Q When did you come to the Choctaw Nation? A Been about 22 years ago.
- Q What year? A Dont remember what year--know how long I been here, cant remember about the years.
- Q And you know how long you been here? Yes sir--know I reckon.
- Q Know what year this is? A Dont know whether I do or not-- never been in such a place as this is, first time I was in a court room.
- Q Through whom do you claim your right to enrollment as a citizen by intermarriage of the Choctaw Nation? A Robert Kincade.
- Q Is he a Choctaw Indian? A Yes sir.
- Q Is he living at this time? A No sir, he has been dead about three years.
- Q When were you married to him? A Married to him about twenty years ago, 1877 I think it was that we was married.
- Q What month? A May.
- Q What day? A Saturday.
- Q What date? A I dont remember that.
- Q Who married you? A Parson Peterson, he lived there at Skullyville, he is dead now.
- Q Have you any evidence of your marriage to Kincade? A I dont know of anybody around there now.
- Q Did you get a certificate from the preacher who married you? A No sir, married under the Choctaw laws, never got any that I know of.

- Q Did you get a certificate from the preacher who married you? A I never, he might have got one.
- Q Did you ever see one? A Not at that time I didnt.
- Q Who was this Parson Peterson that married you? A He was a Choctaw.
- Q Choctaw preacher? A Yes sir.
- Q Did he have a regular charge, pastor? A Yes sir, think he did.
- Q What denomination? A Baptist.
- Q At what place were you married? A Close to Wister.
- Q Was there any one present when you were married? A Married at church.
- Q Who were present? A Lots of people there, I didnt know anyone-- went there to church to get married.
- Q You didnt know anybody there? A No sir, wasnt acquainted over there.
- Q How long had you lived in the Choctaw Nation when you were married to Kincade? A About three years I reckon, I dont remember just exactly how long, been a good little bit though.
- Q Had you ever been married before? A Yes sir.
- Q To whom? A No sir before I was married to him, been married since.
- Q Had he ever been married before he married you? A Yes sir.
- Q To whom? A I dont know his wife's name.
- Q Was she living at the time of your marriage? A No sir, she was dead.
- Q Who informed you of her death? A Why the neighbors around there said he had been married before, said his wife was dead, all I know.
- Q Know how long before she died? A No sir, she died before I come to this country.
- Q Where did you live after you were married to Kincade? A Skullyville County.
- Q Was he a resident of Skullyville County when you married him? A Yes sir, I think he was.
- Q How long did you live together as husband and wife after you were married? A Lived together over two years, dont know just exactly how long.
- Q Then what happened? A Just quit me, got another woman, all that happened.
- Q Did you get a divorce from him? A Yes sir.
- Q Where did you get that divorce? A Well, he just married, that gave me a divorce, I didnt marry for a long time after he was.
- Q Did you remarry after he left you? A Yes sir.
- Q To whom? A This man I have got now, Livingston.
- Q Is he a white man? A Yes sir.
- Q Have you lived in the Choctaw Nation since you married Kincade? A Yes sir.
- Q Continuously? A All the time except two years, we went to Missouri with his people, stayed two years and came back.
- Q What two years was that? A It has been about eight years ago since we came down from there.
- Q And you went to Missouri two years before that? A Yes sir.
- Q What time did you come back? A I dont remember what year we came back, I know we stayed up there two years.
- Q What time in the year did you come back? A In the fall.
- Q Came back in the fall? A Yes sir.
- Q Where did you marry this man Livingston? A Married him here at Muskogee.
- Q Did you marry him before you went to Missouri or afterwards? A Before I went to Missouri.

- Q What were you doing in Missouri? A Just went up there to live, didnt suit us up there, came back down here, his people live up there.
- Q What did your husband do while he was up there? A Farmed.
- Q Rented a farm? A Yes sir.
- Q When you left here did you have any property? A No sir.
- Q Had you any interest in the Choctaw Nation at all when you left? A No didnt have nothing back here that I owned.
- Q How many crops did you make up there in Missouri? A Two crops.
- Q How, shares or rent? A Rented.
- Q Cash rent? A I reckon, third or fourth.
- Q Was it eight years ago this fall since you came back? A I think it is eight years this fall since we came back from Missouri.
- Q What year did you marry Livingston? A I dont remember.
- Q How many years have you been married to him? A I dont remember that, married before we went up there to Missouri.
- Q How long before? A I cant tell you-- if I'd knowed I needed the papers I'd brought them; I cant remember anything way back that way hardly at all.
- Q Since your return here eight years ago this fall have you lived in the Choctaw Nation ever since? A Yes sir.
- Q What is the name of your mother? A Sheppard.
- Q Full name? A Lithie Sheppard.
- Q She a white woman? A Yes sir.
- Q Citizen of the United States? A Yes sir.
- Q What is the name of your father? A Jim Sheppard.
- Q White man? A Yes sir.
- Q Citizen of the United States? A Yes sir.
- Q Either of them living? A No sir, neither of them living.
- Q Did Robert Kincaide marry after he left you? A Yes sir.
- Q Who did he marry? A Married a woman by the name of Babe Cox.
- Q Did you have any children by Robert Kincaide? A One.
- Q What was its name? A Ida Kincaide.
- Q She living? A Yes, she is married.
- Q What is her name now? A Ida Walker.
- Q Has she been enrolled as a Choctaw citizen? A Dont know whether she is or not, I took her to Buckwheat Prairie courthouse twice, dont remember when I took her there, been so long ago.
- Q What is the name of the father of Robert Kincaide? A I dont know what his father's name was.
- Q What is the name of his mother? A Dont know-- were both dead when we was married.
- Q What county in the Choctaw Nation did you and he live in? A Skullyville County.
- Q All the time? A Yes sir.
- Q How old was he when you married him, Robert Kincaide? A I dont know.
- Q Are you sure that the Robert Kincaide you married was a Choctaw Indian? A I guess he was about a halfbreed.
- Q How many times was Robert Kincaide married after he left you? A Twice.
- Q Knew either of his wives? A Both of the last ones.
- Q What was the name of his first wife? A Babe Cox.
- Q Did he have any children by her? A One, I think.

- Q What was its name? A I dont know what its name was.
Q Did she die? A No sir, She is living, she is an Indian woman.
Q Well after she left him whom did he marry? A Addie Trinn, that is his last wife.
Q Know her personally? A Have seen her good many times, never seen her after she was married.
Q Was she a white woman? A No sir citizen.
Q Did he have any children by her? A Three I think, but they are all dead.
Q Do you know the names of any of them? A No sir, none of the children.
Q How long did Robert Kincade live in Skullyville County after you left him? A Why he lived there a long time, I dont know just how long he did stay there.
Q Where did he go to? A Lived up here at Lona.
Q Dont know what county that is in? A No sir I dont.

See Choctaw Field Card No. 2697.

WITNESS EXCUSED.

Cora Moore being first duly sworn states that as stenographer to the Commissioner to the Five Civilized Tribes she reported the proceedings had in the above entitled cause on the 21st day of June, 1906, and that the above and foregoing is a full, true and correct transcript of her stenographic notes taken in said cause on said date.

Cora Moore

Subscribed and sworn to before me this 22nd day of June, 1906.

Edward Merriuk
Notary Public.

D.C. 41391-1905.

McCurtain, I.T. August 30th, 1905.

Commissioner to the Five Civilized Tribes,
Muskogee, I.T.

Dear Sir:

I write you relative to the enrollment and the matter of taking testimony in the case of Mrs. Mollie Livingston an applicant for enrollment of the Choctaw Nation by intermarriage. I admit that this party has not made an application, but I ask that she now be allowed to testify in her case, and ask that you set some time for the taking of testimony in her case. This applicant was married to a Choctaw Indian name Robert Kincade. Said Robert Kincade has selected his allotment. Said applicant was married to said Robert Kincade according to the Choctaw Law in 1877. Has resided in the Choctaw since said marriage. Was never married before her marriage to Kincade. Was Kincade's first wife. She makes this application and asks that testimony be taken in her case.

Respect,

C. T. Mitchell

REFER IN REPLY TO THE FOLLOWING:

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, September 6, 1905.

Charles T. Mitchell,
Attorney at Law,
McCurtain, Indian Territory.

Dear Sir:

Receipt is hereby acknowledged of your letter of August 30th, relative to the enrollment of Mrs. Mollie Livingston as a citizen by intermarriage of the Choctaw Nation. You state that Mrs. Livingston was married to a Choctaw Indian named Robert Kincaide according to the Choctaw law in 1877; you admit, however, that Mrs. Livingston has never made an application to be enrolled as a citizen by intermarriage of the Choctaw Nation.

The time within which the Commission to the Five Civilized Tribes could receive and consider applications for enrollment in the Choctaw and Chickasaw Nation expired December 24, 1902. If an application was not made by Mrs. Livingston prior to that date there is now no authority for the reception and consideration thereof.

Respectfully,

W. C. Beall

Acting Commissioner.

Copyright

THE BELLEVILLE

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Mrs. *Siembra* Peters, being duly sworn, deposes and says:-

My name is, *Siembra*

Peters. My age is *47* years. My Post Office is *Kennady, D. T.*

I know Mrs. Mollie Livingston. I knew her when she married her first husband, Robert Kincade. She and Robert Kincade were married on the day of May 1877. They were married by my husband, *Simon* Peters, at our home, near Wister, Ind. Ter. I was present at the marriage. My husband was a Choctaw minister and duly authorized to perform marriage ceremonies.

Robert Kincade, was a Choctaw Indian by blood and duly enrolled as such and had selected his allotment at the time of his death, which occurred in the spring of 1903.

Robert Kincade, after his marriage to Mrs. Livingston, married Addie Trahern. Addie Trahern's father's name was Robert, and her mother's name Cornelia, Trahern.

Robert Kincade's father was named Robert, and his mother named Nancy, Kincade.

Witness my hand this the *13* day of *July* 1900.

Siembra Peters

Subscribed and sworn to before me this the *13* day of *July* 1900.

Geo. W. Rodgers
Notary Public.

My commission expires on the *6* day of *Feb.* 1908.

MY COMMISSION EXPIRES

Memo. 332.
O.L.J.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the alleged application for the enrollment of Mollie Livingston as a citizen by intermarriage of the Choctaw Nation.

D E C I S I O N.

It appears from the record herein that on June 21, 1906, Mollie Livingston appeared before the Commissioner to the Five Civilized Tribes at Muskogee, Indian Territory, and presented testimony relative to an application alleged to have been made for her enrollment as a citizen by intermarriage of the Choctaw Nation, within the time limited by the provisions of the Act of Congress approved April 26, 1906 (34 Stats., 137).

It does not appear from the records in the possession of this office that any formal application has ever been made for the enrollment of said applicant as a citizen by intermarriage of the Choctaw Nation prior to December 1, 1902. It appears, however, that on September 1, 1905, there was received by the Commissioner to the Five Civilized Tribes a letter bearing date of August 30, 1905, from C. T. Mitchell, attorney at law, of McCurtain, Indian Territory, requesting that testimony be taken in the matter of the application for the enrollment of Mollie Livingston as a citizen by intermarriage of the Choctaw Nation. In reply thereto the Commissioner to the Five Civilized Tribes on September 6, 1905, advised said C. T. Mitchell that he was without authority to receive or consider any application for the enrollment of said applicant.

I am of the opinion that the letters above referred to constitute a sufficient application for the enrollment of said applicant, made within the time limited by the provisions of the Act of Congress approved April 26, 1906 (34 Stats., 137), and that the same should now be determined upon its merits, and it is so ordered.


Commissioner.

Muskogee, Indian Territory,

OCT 19 1906

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.
MUSKOGEE, INDIAN TERRITORY, NOVEMBER 22, 1906.

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In the matter of the application for the enrollment of
Mollie Livingston as a citizen by intermarriage of the Choctaw
Nation.

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APPEARANCES:

C. T. Mitchell, Attorney at Law, McCurtain, Indian
Territory, appears on behalf of the applicant.
No appearance on the part of the Choctaw and Chick-
asaw Nations.

SIAMBRA PETERS, being first duly sworn by H. G. Haines, tes-
tified as follows:

(by the Commissioner)

- Q What is your name? A Peters.
Q Full name? A Siambra Peters.
Q How old are you, Mrs Peters? A I am fifty years old.
Q What is your post office address? A Kennedy, I. T.
Q Are you acquainted with Mollie Livingston? A Yes sir.
Q How long have you known her? A About 20 years.
Q Did you ever know Robert Kincaid? A Yes sir, I was well
acquainted with him.
Q What was he? A He was a Choctaw by blood.
Q Where was he living when you became acquainted with him?
A He was living in Sugar Loaf County.
Q Do you know the name of his father? A Robert Kincaid.
Q His mother? A Nacey.
Q Do you remember when Mollie Livingston and Robert Kincaid were
married? A Yes sir.
Q At what place were they married? A At my house--at Kennedy,
near Wister.
Q At your home? A Yes sir.
Q Who performed the marriage ceremony? A Simon Peters, my
husband.
Q What position did your husband occupy? A He was a farmer.
Q Was he a preacher? A Oh, yes sir, he was a preacher.
Q Choctaw preacher? A Yes sir.
Q Do you know whether or not Mollie Livingston was married
before she married Robert Kincaid? A No sir, she never had
been married before.
Q Had Robert Kincaid been married before? A No sir.

Mollie Livingston----2.

- Q Did your husband give Mollie Livingston and her husband a certificate of marriage? A Yes sir. If he had ever been married I don't know it, I don't think though that he had ever been married.
- Q After your husband united Robert Kincaid and Mollie Livingston did he give them a paper showing that they married? A You mean a certificate?
- Q Yes. A Well, I won't be sure, it has been so long ago, but I think he did.
- Q You have a distinct recollection that your husband married these people? A Yes sir.
- Q Was your husband a regularly ordained minister? A Yes sir.
- Q What denomination? A Methodist.
- Q Is your husband living at this time? A No sir, he is dead.
- Q When did he die? A He has been dead seven years the 29th day of this next month--29th day of December.
- Q Did your husband ever make any record of these marriages that he performed from time to time? A Yes sir, I think he did.
- Q Did you ever look to see whether or not he had a memorandum showing the marriage of these people? A No sir, I never did.
- Q When was it that this marriage took place? A It was in 1877.
- Q During what month? A May.
- Q Do you remember the day? A I do not remember the day, but I know it was in May they were married.
- Q May, '77. How long did Robert Kincaid and Mollie Livingston live together? A I don't know for certain how long they lived together. I have known her for twenty years, but they moved away from me for several years, and I don't know how long they lived together.
- Q Did they live together until the death of Robert Kincaid? A No sir, they didn't, they separated..
- Q What county did Robert Kincaid live in? A Sugar Land Co.
- Q Lived there all his life? A Yes sir, I think he lived there all his life.
- Q Did Mollie Livingston and Robert Kincaid have any children? A Yes sir, she had one daughter.
- Q By Robert Kincaid? A Yes sir.
- Q What is her name? A Ida.
- Q Ida Kincaid. Do you recollect when Robert Kincaid died? A No sir, I don't, I knew at the time when he died, but I don't remember how long it has been.
- Q Can you state approximately how long after they were married that he died? A No sir, I can not.

(Witness turned over to Mr. Mitchell)

(By Mr. Mitchell)
That is all.

Witness excused.

Kate DeBord, stenographer to the Commissioner to the Five Civilized Tribes, being first duly affirmed, states that she correctly reported all proceedings had in the above entitled cause on the 22nd day of November, 1906, and that the above and foregoing is a full, true and correct transcript of her stenographic notes taken therein on said date.

Subscribed and affirmed to before me this 23rd day of November, 1906.

Kate DeBord
Chas. E. Helbert
Notary Public.

DEPARTMENT OF THE INTERIOR
COMMISSIONER TO THE FIVE CIVILIZED TRIBES
MUSKOGEE, IND. TER.
JAN. 14, 1907.

IN THE MATTER OF THE APPLICATION FOR THE
ENROLLMENT OF MOLLIE LIVINGSTONE AS A
CITIZEN BY INTERMARRIAGE OF THE CHOCTAW
NATION.

MEMORANDUM 232.

7-6047.

ooOoo

WILLIAM LIVINGSTONE BEING FIRST DULY SWORN TESTIFIED AS
FOLLOWS:

EXAMINATION BY THE COMMISSIONER:

- Q State your name. A William Livingstone.
Q How old are you. A Thirty nine years old.
Q What is your post office address? A Suter, Indian Terri-
tory.
Q Are you a white man. A Yes sir.
Q Citizen of the United States. A Yes sir.
Q Are you the husband of Mollie Livingstone the applicant in
this case. A Yes sir.

EXAMINATION BY MR. McKENNON:

- Q Mr. Livingstone will you state at what time you and your
wife were in Missouri; what year; how long ago.
A To the best of my knowledge I think it was 1891; I went
there in 1891 and I put in a crop and I sold that crop
out and come back to the Territory in the following 1892.
Q She was with you in Missouri. A Yes sir.
Q How long did you remain there. A Something over a year
and a half; about a year and a half as well as I can get
at it.
Q What year did you return to the Indian Territory?
A I come back here in 1892 I think, I'm pretty positive.
Q What time of the year did you come; do you know.
A February.
Q Have you and he been living together in the Indian
Territory ever since. A Ever since.
Q That is your child is it (indicating).
A Yes sir.
Q What is its age? A She will be five years old the fourth
day of April.
Q What is her name. A Elizabeth.
Q Neither you nor she have been out of the Indian Territory
since you returned from Missouri.
A Not only on a visit for about three weeks. Went back
to Missouri four years ago and saw my sister.
Q Just went there on a visit. A Yes sir, stayed three
weeks and came back.
Q Did you leave your household furniture and everything
there. A I left everything, cattle hogs and everything.

- Q When you went to Missouri before did she have any property in the Indian Territory? A Why yes, she had a couple of cows, and a mare and colt.
- Q Were they left here? A They were left at Poteau with her brother, right near Shady Point, and when we come back we got them.

THE COMMISSIONER:

- Q When did you marry this woman. A In February '92 I believe.
- Q February 1892. A 1892, I think, I'm pretty positive.
- Q Weren't you married when you were up in Missouri.
- A No, sir, I wasn't; I went up there myself and then sent for my wife, and brought her up there and I come on back down, and we was married here in Muskogee.
- Q That was after you returned from Missouri. A Yes sir.
- Q She wasn't up in Missouri with you. A Yes she was up in Missouri with me but she was at my brother's in Missouri.
- Q You weren't married at that time. A No; wasn't living together at all.
- Q Were you on your way back from Missouri when you stopped here in Muskogee and were married. A Yes sir.
- Q Where have you lived since that time.
- A I lived round Shady Point and Poteau and Suter, all round there in ten miles of one another ever since.
- Q How long did you stay at Muskogee. A Came thru and married and went right on down to my brother's.
- Q Where does your brother live. A Seven miles from Poteau.
- Q You have lived there ever since.
- A I have, yes sir, in ten miles ever since.
- Q Has your wife Mollie lived with you continuously since that time. A Yes sir.
- Q Did you take out a license here at Muskogee when you married. A Yes sir.
- Q In the United States Court. A Yes sir.
- Q And you are positive that that was on your return from the state of Missouri. A Yes sir.
- Q How does it happen that your present wife went up to Missouri and stayed two years with your people before you married her? A She didn't stay two years, she was mistaken when she said that and I told her she was mistaken, I said she must have got that wrong.
- Q She states you were married before you went to Missouri.
- A We wasn't; my brother there in Missouri could tell you the same if he was there; she boarded there at the time I made the crop, at his house.
- Q How long was your wife up there before you married.
- A She had been up there about three weeks; after I went up there I sent and got her and brought her up there and boarded at my brothers until I put in this crop.
- Q You stated you were up there a year and a half.
- A Right about a year and a half.
- Q How did it happen that you had her up there with your people for a year and a half without marrying her.
- A I didn't want to leave her down here; I rented that place and wanted to put in the crop when I went up there; I sent and got her and boarded her with my brother.
- Q Did you expect to marry her at that time? A Yes sir.
- Q Why did you wait until you got back to Muskogee before marrying. A She wanted to come back to the Indian Territory to marry; she had been raised almost in the Indian Territory and she wanted to come back to the Territory.

- Q If your wife says that you married her before you went up to Missouri is she mistaken. A Yes sir she is.
- Q You are positive of that. A I'm satisfied of it yes sir.
- Q You are positive that you married after you returned from Missouri. A I'm satisfied we married on the return from Missouri.
- Q That was in what year. A In 1892 I think.
- Q And neither you nor your wife has made your home any place else except in the Choctaw Nation since that time.
- A No where else; in fact I never have been out of the Choctaw Nation until I went away and stayed about three weeks at my sisters.
- Q How long had you been living in the Indian Territory before you went to Missouri at this time you speak of in 1891. A We had been round in the Indian Territory I suppose ever since, about three years, I would call it.

MOLLIE LIVINGSTONE BEING FIRST DULY SWORN TESTIFIED AS FOLLOWS:

EXAMINATION BY THE C OMMISSIONER:

- Q State your name. A Mollie Livingstone.
- Q What is your age. A I think I'm about forty years old.
- Q What is your post office address? A Suter.
- Q Are you an applicant for enrollment as a citizen by intermarriage of the Choctaw Nation. A Yes sir.
- Q Where were you married to your present husband Mrs Livingstone
- A Here in Muskogee.
- Q Were you living in Muskogee at that time? A No sir, just passing thru.
- Q Where were you coming from and where going to.
- A Going to Suter and coming from Missouri.
- Q When was that, do you know.
- A I can't remember the dates to save my life.
- Q Do you know how many years ago it was. A About fifteen years I think, as near as I remember, I can't remember that far back.
- Q What had you been doing up in Missouri.
- A I had been staying up there.
- Q How long had you been there.
- A I had been there about a year and a half I reckon.
- Q Who had you been staying with. A My husband's brother; I was boarding there.
- Q Living at their house. A Yes sir.
- Q Had you and Mr. Livingstone been married before that time.
- A No, sir; I guess I stated before, I was, but we wasn't; I was excited when I was in here before; I couldn't tell nothing.
- Q Are you positive that you were not married at the time you were living in Missouri. A No sir I wasn't married then.
- Q You didn't marry until you returned from Missouri.
- A No sir.
- Q How does it happen that you had gone to Missouri and lived there a year and a half. A I just took a notion I wanted to go up there and be close to him.
- Q Had you and he expected to get married before he left the Territory to go to Missouri. A Yes sir.

- Q Since you were married to Mr. Livingstone have you lived in the Indian Territory continuously. A Ever since we have been married except that visit to Missouri.
- Q Where did you go to after you married when you left Muskogee. A Went close to Poteau down to my brother's.
- Q Where have you lived since that time.
- A Right round there.
- Q How long had you been in Missouri before you married.
- A About a year and a half.
- Q Did you at all times expect to return to the Indian Territory. A Yes sir, I aimed to, I dont know whether he did or not; I aimed to if he would come back.
- Q You didn't expect to if he wanted to live some place else did you. A I dont know whether I would have come back or not.
- Q You was going to marry him weren't you. A I aimed to.
- Q Did you have any property in the Indian Territory at that time. A I didn't have anything only a couple of cows and a colt; I had a little furniture in the house.
- Q Did you keep those things. A My brother did.
- Q Where did he live. A He lived down close to Poteau; close to Shady Point.

TESTIMONY CLOSED.

Clara Mitchell Wood being first duly sworn upon her oath states that as stenographer for the Commissioner to the Five Civilized Tribes she reported the above and foregoing proceedings and that this is a correct transcript of her stenographic notes.

Subscribed and sworn to before me this 14th day of January 1907.

Clara Mitchell Wood

Walter W. Chappell

Notary public

Memo-232
7-6047
O.L.J.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

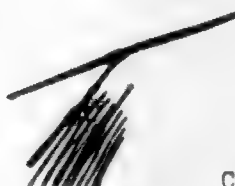
In the matter of the application for the enrollment of Mollie Livingston as a citizen by intermarriage of the Choctaw Nation.

D E C I S I O N .

It appears from the record herein that application was duly made for the enrollment of Mollie Livingston as a citizen by intermarriage of the Choctaw Nation within the time limited by the provisions of the Act of Congress approved April 26, 1906 (34 Stats., 187).

It further appears from the record herein that the applicant, Mollie Livingston, was during the month of May 1877 lawfully married to Robert Kincaid, a recognized and enrolled citizen by blood of the Choctaw Nation whose name appears as number 7866 upon the final roll of citizens by blood of the Choctaw Nation approved by the Secretary of the Interior January 17, 1903; that at the time of said marriage both persons above mentioned were residents in good faith of the Choctaw Nation; that they lived together continuously as husband and wife in said nation for a period of about two years when they separated; and that said applicant was a resident in good faith of the Indian Territory on June 28, 1898.

I am, therefore, of the opinion that Mollie Livingston should be enrolled as a citizen by intermarriage of the Choctaw Nation under the provisions of the Acts of Congress approved June 28, 1898 (30 Stats., 428), and July 1, 1902 (32 Stats., 641), and it is so ordered.



Commissioner.

Muskogee, Indian Territory,
JAN 18 1907

Memo-232

7-6047.

COPY

Muskogee, Indian Territory, January 18, 1907.

Mollie Livingston,

Sutter, Indian Territory.

Dear Madam:

Inclosed herewith you will find a copy of the decision of the Commissioner to the Five Civilized Tribes, rendered January 18, 1907, granting the application for your enrollment as a citizen by intermarriage of the Choctaw Nation.

You are hereby advised that the name of Mollie Livingston will be placed upon the next schedule of citizens by intermarriage of the Choctaw Nation to be submitted to the Secretary of the Interior for his approval.

Respectfully,

SIGNED *Jams Bixby*

Commissioner.

Registered.

Memo-232
7-6047.

Memo-232

7-6047

COPY

Muskegee, Indian Territory, January 18, 1907.

C. T. Mitchell,

Attorney-at-law,

McCurtain, Indian Territory.

Dear Sir:

Inclosed herewith you will find a copy of the decision of the Commissioner to the Five Civilized Tribes, rendered January 18, 1907, granting the application for the enrollment of Mollie Livingston as a citizen by intermarriage of the Choctaw Nation.

You are hereby advised that the name of Mollie Livingston will be placed upon the next schedule of citizens by intermarriage of the Choctaw Nation to be submitted to the Secretary of the Interior for his approval.

Respectfully,

SIGNED

Tamox Dixby

Commissioner.

Registered.

Memo. 232

7-6047.

Memo-232
7-6047.

Muskogee, Indian Territory, January 18, 1907.

Mansfield, McMurray & Cornish,

Attorneys for the Choctaw and Chickasaw Nation.

South McAlester, Indian Territory.

Gentlemen;

Inclosed herewith you will find a copy of the decision of the Commissioner to the Five Civilized Tribes, rendered January 18, 1907, granting the application for the enrollment of Mollie Livingston as a citizen by intermarriage of the Choctaw Nation.

You are hereby advised that the name of Mollie Livingston will be placed upon the next schedule of citizens by intermarriage of the Choctaw Nation to be submitted to the Secretary of the Interior for his approval.

Respectfully,

SIGNED *Irene Dixie*

Commissioner.

Registered.

Memo. 232
7-6047.

27761 232

Received of the Commissioner to the Five Civilized
Tribes one copy of the testimony of Mollie Livingston in the matter
of her application for enrollment as an intermarried citizen of
the Choctaw Nation.

C. D. Mitchell

Muskogee, Indian Territory,

August 28, 1906.

Choctaw 6048

Belle McLellan

Transferred from Memo #1

11-6-06

6048

Choctaw 3919.

Muskogee, Indian Territory, May 24, 1904.

T. N. Foster,

South McAlester, Indian Territory.

Dear Sir:

Receipt is hereby acknowledged of your letter of May 11, in which you state that Edmund McClellan, through Attorney Rappolle, made application in November, 1902, for the enrollment of his wife, Belle McClellan, an intermarried citizen of the Choctaw Nation, by forwarding a certified copy of his marriage license and certificate to the Commission. You state that McClellan has now been admitted to citizenship by the Choctaw and Chickasaw Court and desires to complete the proof in this case. You therefore ask what steps are necessary to take in the matter of the enrollment of Belle McClellan as an intermarried citizen of the Choctaw Nation.

In reply to your letter, you are informed that it does not appear from our records that any application has been made to this Commission by or on behalf of Belle McClellan for enrollment as an intermarried citizen of the Choctaw Nation; nor does it appear that the marriage license and certificate between Edmund McClellan and his wife have been forwarded to this office.

Under the provisions of the act of Congress of July 1, 1902, the Commission is now without authority to receive or consider any original applications for enrollment in the Choctaw and Chickasaw Nations.

Respectfully,
(signed) TANS BIXBY
Chairman.

DC-22542-1904.
Y.P.
ITD.4993-1904.

(COPY).

J.W.H.

FILE

DEPARTMENT OF THE INTERIOR,

WASHINGTON, June 30, 1904.

Commission to the Five Civilized Tribes,
Muskogee, Indian Territory,

Gentlemen:

The Department is in receipt of a letter dated June 16, 1904, from Townsend H. Foster, Attorney at Law, South McAlester, Indian Territory, relative to the right of Belle McLellan, wife of Edmund McLellan, of Caddo, I.T., to enrollment as a citizen by intermarriage of the Choctaw Nation.

It appears that the said Edmund McLellan was one of the parties applicant in the Choctaw enrollment case of James A. McLellan, et al., No. 10, before the Choctaw and Chickasaw Citizenship Court. A decision favorable to the applicants was rendered by said Court on March 21, 1904.

Inclosed with Mr. Foster's letter was a letter from your Commission dated May 24, 1904, addressed to him; the petitions of J.L. Rappolee, Edmund McLellan and Belle McLellan, and a marriage certificate showing that Mr. E. B. McLellan and Miss Belle Browder were married August 6, 1902.

From the papers submitted it appears that an application was mailed to your Commission by MS. McLellan in the latter part of October or early in November, 1902, requesting her enrollment as a citizen by intermarriage of the Choctaw Nation. From your letter,

referred to above, it appears, however, that no such application was received by your Commission, nor was there received, as alleged, a certificate showing the marriage of these parties.

The records of your office, where an affirmative showing is made, are entitled to great credit. Said records are not, however, conclusive evidence that an application was not mailed to you in due time. The Department considers that secondary evidence of the sending of such application may be properly received by your Commission. You are accordingly directed to allow Mrs. McLellan thirty days within which to submit such testimony as she may deem fit, showing the time when her application was made and the manner of making the same. You will advise Mrs. McLellan and her attorney, Mr. Foster, in accordance herewith.

The papers transmitted by Mr. Foster and referred to above, are inclosed herewith.

Respectfully,

E. A. Hitchcock,
Secretary.

4 inclosures.

Muskogee, Indian Territory, July 7, 1904.

Townsend N. Foster,

Attorney at Law,

South McAlester, Indian Territory.

Dear Sir:

On June 30, 1904 the Secretary of the Interior directed the Commission to allow Belle McLellan, wife of Edmund McLellan, of Caddo, Indian Territory thirty days within which to submit such testimony as she may see fit showing the time when her application for enrollment as an intermarried citizen of the Choctaw Nation was made and the manner of making the same.

You are, therefore, hereby notified that the Commission will, at its office in Muskogee up to and inclusive of Saturday, August 6th, receive such testimony as may be offered showing the time when application was made by her for enrollment as an intermarried citizen of the Choctaw Nation and the manner of making the same.

In accordance with your personal request over the telephone as to whether or not the instructions of the Department in this matter had been received by the Commission, you were

T.N.P.--2.

advised by telegram on this date as follows:

"Departmental instructions just received by Commission to allow Belle McEllan thirty days to submit testimony showing when her application was made. Notices will be mailed this evening. If you desire to have this case heard to-morrow you may do so but must serve notice on attorneys for the Choctaw Nation and they must agree to that date."

Respectfully,

I. B. Needles

Commissioner in Charge.

Muskogee, Indian Territory, July 7, 1904.

Mansfield, McMurray & Cornish,

Attorneys for the Choctaw and Chickasaw Nations,

South McAlester, Indian Territory.

Gentlemen:

On June 30, 1904 the Secretary of the Interior directed the Commission to allow Belle McLellan, wife of Edmund McLellan, of Caddo, Indian Territory thirty days within which to submit such testimony as she may see fit showing the time when her application for enrollment as an intermarried citizen of the Choctaw Nation was made and the manner of making the same.

You are, therefore, hereby notified that the Commission will, at its office in Muskogee up to and inclusive of Saturday, August 6th, receive such testimony as may be offered showing the time when application was made by her for enrollment as an intermarried citizen of the Choctaw Nation and the manner of making the same.

In accordance with the personal request of T. H. Foster over the telephone as to whether or not the instructions of the Department in this matter had been received by the Commission, and requesting, if so, that the testimony be heard tomorrow, July 8,

M. McM. & Co.--2.

He was advised by telegram on this date as follows:

"Departmental instructions just received by Commission to allow Belle McLellan thirty days to submit testimony showing when her application was made. Notices will be mailed this evening. If you desire to have this case heard to-morrow you may do so but must serve notice on attorneys for the Choctaw Nation and they must agree to that date."

Respectfully,

T.B. Needles

Commissioner in Charge.

Muskogee, Indian Territory, July 7, 1904.

Belle McLellan,

Care of Edmund McLellan,
Caddo, Indian Territory.

Dear Madam:

On June 30, 1904 the Secretary of the Interior directed the Commission to allow Belle McLellan, wife of Edmund McLellan, of Caddo, Indian Territory thirty days within which to submit such testimony as she may see fit showing the time when her application for enrollment as an intermarried citizen of the Choctaw Nation was made and the manner of making the same.

You are, therefore, hereby notified that the Commission will, at its office in Muskogee up to and inclusive of Saturday, August 6th, receive such testimony as you may offer showing the time when you made application for enrollment as an intermarried citizen of the Choctaw Nation and the manner of making the same.

Respectfully,

I. B. Needles

Commissioner in Charge.

Form No. 260.

THE WESTERN UNION TELEGRAPH COMPANY.

INCORPORATED

21,000 OFFICES IN AMERICA. CABLE SERVICE TO ALL THE WORLD.

ROBERT C. CLOWRY, President and General Manager.

Received of No.

Transmitted

SEND the following message subject to the terms
on back hereof, which are hereby agreed to.

READ THE NOTICE AND AGREEMENT ON BACK.



United States of America
Indian Territory
Central District

J. L. Rappolee being first duly sworn says: I am a Practising Attorney, duly admitted to the bar and residing at Caddo I. T. I am acquainted with Edmund McLellan and his wife Belle.

Edmund McLellan is a Citizen by blood of the Choctaw Nation, having been recently admitted by the Choctaw and Chickasaw Citizenship Court at South McAlester I. T. in the case of James A. McLellan et al -vs- The Choctaw Nation. Edmund McLellan came to my Office in the latter part, of October or first part of November 1902 and had me make application for the enrollment of his wife Belle as an intermarried citizen of the Choctaw Nation. And he stated to me at the time that his wife was unable to appear before the Commission at Muskogee or before me at my Office in Caddo I. T. on account of her health. I wrote a letter of application and enclosed said letter with the marriage certificate in one of my envelopes, with proper return written or printed thereon, and delivered to Edmund McLellan to post, said envelope was either addressed to the "Dawes Commission" or "The Commission to the Five Civilized Tribes" at Muskogee, said application was not returned to me through the Post Office, nor have ever received any information as to the action of the Commission with reference to the same.

However as I did not appear as Attorney for Belle McLellan the same would not have been made to me if any action had been taken on the same.

J. L. Rappolee
Subscribed and sworn to before me on this the 14th day of June
A. D. 1904
(SEAL)

(Signed) C. H. Elting.
Notary Public.

United States of America,
Indian Territory,
Central District.

Edmund McClellan, being first duly sworn states;
I am a citizen by blood of the Choctaw Nation, having recently been admitted as such by the Choctaw and Chickasaw Citizenship Court at SoMcAlester, in the case of James A. McLellan et al -vs- The Choctaw & Chickasaw Nations and approved by the Honorable Secretary of the interior. The United States Court for the Central District of the Indian Territory had previously rendered judgment in favor of said plaintiffs, which judgment was, in December 1902, set aside by a decree of the Choctaw and Chickasaw Court at SoMcAlester, I. T.

I am lawfully married to my wife, Belle McLellan, who resides with me at Caddo, I. T. We were married in August 1902, in Orangeville, Texas. In November 1902, my said wife, Belle, being in a delicate condition and being unable to attend before the Daws Commission, I employed J. L. Rappolee Atty. at Law, to make application for her enrollment as an intermarried citizen before the Daws Commission. Mr. Rappolee wrote a letter of application for her admission in my presence which I mailed myself and enclosed with it our marriage license and certificate, since which time I have heard nothing from the Commission on the subject.

The judgment obtained in the case of James A. McLellan was set aside as aforesaid, and until such time as the same was restored, or rather confirmed as above stated this application was allowed to rest with said Commission. The Commission, now as will be seen by their letter enclosed herewith, have no record and decline to consider it for want of jurisdiction to do so.

I therefore pray that the Honorable Secretary direct a hearing in this case.

Edmund McLellan
Subscribed and sworn to before me this the 14th day of June 1904.
J. L. Rappolee
(SEAL) Notary Public.

United States of America,
Indian Territory,
Central District.

Mrs. Belle McLellan, being first duly sworn says;
I am the wife of Edmund McLellan, we were married at Orangeville Texas, on the 6th day of August 1902. We now reside together as husband and wife near Caddo I. T. My said husband Edmund McLellan is a citizen of the Choctaw Nation, the son of S. J. McLellan, one of the plaintiffs in the case of James A. McLellan et al -vs- the Choctaw and Chickasaw Nations, recently decided in the Choctaw and Chickasaw Citizenship Court at McAlester, I. T. in favor of the plaintiffs. The names of said plaintiffs, including my husbands name have been approved as citizens by the Honorable Secretary of the Interior. Said plaintiffs were adjudged citizens of the Choctaw Nation by The United States Court of the Indian Territory, several years since. This judgment was set aside by said Citizenship Court in the month of December 1902.

During the latter part month of October or first of Nov, 1902, being unable to attend in person before the Daws Commission, for the purpose of making my application as an inter-married citizen, ~~I employed J. L. Rappolee Atty of Caddo I. T. to make application for us.~~ Mr. Rappolee sent a copy of my Marriage license and certificate and an application for my enrollment to the Daws Commission at Muskogee, which papers have ^{never} been returned.

Soon after this time the judgment in the McLellan case was set aside and this matter was allowed to stand until the case should be re-tried, which has since been done and the judgment affirmed including the name of my said husband Edmund McLellan. The Daws Commission from the enclosed letter to have made no record of the application. I therefore pray the Honorable Secretary to direct a hearing of my case

Belle McLellan
(Seal) Subscribed and sworn to before me this the 14th day of June 1904.
J. L. Rappolee
Notary Public.

6/16/1904 Received a copy of foregoing affidavits this day
Manfield McMurray & Cornish GR.

(COPY-DoB)

MARRIAGE CERTIFICATE.

State of Texas

County of _____

This Instrument Witnesseth:

that on the 5th day of August, A. D. 1902 there was issued out of the office of the Clerk of the County Court of said County, a License for the Marriage of Mr. E. B. McLellan and Miss Bell Browder and on the 5th day of August A. D. 1902 said parties were legally united in Marriage by a properly authorized person, named in said License and due return thereof made to this office in the manner and form required by law, all of which is duly entered upon the Marriage Record of my office in Vol N. Page 269

Witness my hand and official seal at
my office in Benham, _____ Texas,
on this the 22nd day of April, A.D. 1905.

Pat Henry

Clerk, County Court Fannin County
Texas.

(SEAL)

By Henry Wells, _____
Deputy.

A 1134 GLASS 4.

Clarke & Courts, Stationers &
Lithographers, Galveston.

(endorsed)

A 1134
Mr. E. B. McLellan
and
Miss Bell Browder
MARRIAGE CERTIFICATE
Issued April 22nd, 1905.
Pat Henry, Clerk
By Henry Wells, Deputy.

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES.
F I L E D
APR 27 1905
Tamm Biny, Chairman.

Department of the Interior
Received Jun 20 1904
Enc No 2 of No 4993
Indian Territory Division

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
MUSKOGEE, I.T., JULY 13, 1904.

In the matter of the alleged application made by Belle McLellan, for enrollment as a citizen by intermarriage of the Choctaw Nation.

EXAMINATION BY THE COMMISSION.

Belle McLellan, being first duly sworn, testified as follows:

- Q. What is your name? A. Belle McLellan.
Q. How old are you? A. Twenty-three.
Q. What is your post office address? A. Nail, Indian Territory.
Q. Have you ever personally made application to the Commission to the Five Civilized Tribes for enrollment as a citizen by intermarriage of the Choctaw Nation? A. Have I in person?
Q. Yes. A. No, sir; I did not in person; my husband applied for me. I was in delicate health at the time.
Q. Have you ever submitted a petition-- a written petition for enrollment as a citizen by intermarriage of the Choctaw Nation?
A. My husband did.
Q. Have you? A. No, sir.
Q. Have you in any manner ever made any application personally to the Commission, either by letter, petition or otherwise?
A. Not myself;-- I have not.

WITNESS EXCUSED.

Edmund McLellan, being first duly sworn, testified as follows:

- Q. What is your name? A. Edmund McLellan.
Q. How old are you? A. Twenty-three.
Q. What is your post office address? A. Nail.
Q. Are you the identical Edmund McLellan who was admitted to citizenship in the Choctaw Nation by a recent decree of the Choctaw and Chickasaw Citizenship Court? A. Yes, sir.
Q. Are you the husband of Belle McLellan? A. Yes, sir.
Q. Have you ever personally made application to this Commission for the enrollment of your wife, Belle McLellan, as a citizen by intermarriage of the Choctaw Nation? A. Not in person.
Q. Have you ever by petition, or in writing in any manner made application to this Commission for the enrollment of your wife as an intermarried citizen of the Choctaw Nation? A. I had Judge Rappelle make application.

Q. You, yourself, have never addressed any letter to the Commission or submitted any petition, or you have not personally applied for your wife; is that what I understand? A. I do not hardly understand.

Q. Have you ever written any letter? A. No, sir.

Q. Have you ever personally applied? A. No, sir.

Q. Have you ever subscribed or sworn to any petition for the enrollment of your wife? A. No, sir.

WITNESS EXCUSED.

Retta Hinkle, being first duly sworn, testified as follows:

Q. What is your name? A. Retta Hinkle.

Q. Your age? A. Twenty-four.

Q. Your post office address? A. Muskogee.

Q. What is your occupation? A. I have charge of the mailing Division of the Dawes Commission.

Q. How long have you occupied that position? A. I have been in charge of the office since some time in August, 1903.

Q. How long have you been employed by the Commission? A. I have been employed by the Commission since June 1, 1902.

Q. In your present position have you the custody of all of the mail received at the office of the Commission and forwarded from the office of the Commission? A. I have.

Q. Have you examined the records of letters received by the Commission during the period beginning August 5, 1902 and ending December 24, 1902? A. I have.

Q. Did you find any letter received from one J. L. Rappelee of Caddo, Indian Territory? A. I found one, but it did not seem to have any bearing on the subject.

Q. Did you find any letter or any petition submitted to this Commission by J. L. Rappelee, Edmund McLellan or Belle McLellan for the enrollment of Belle McLellan as a citizen by intermarriage of the Choctaw Nation, during the time mentioned? A. I did not.

Q. Is the letter that I hand you the only one that appears in the files of the Commission, received from J. L. Rappelee between August 5, 1902, and December 24, 1902? A. No, it was not, but the brief in the book always gave the substance of the letter; I did not take the letters out of the files.

Q. There is no letter from Mr. Rappelee? A. None relative to this McLellan case. I brought this letter simply because it did not state the name.

(Copy of letter in question).
(Having been exhibited).

J. L. Rappelee,
Lawyer,
Commission to the Five Civilized Tribes,
Muskogee, I.T.

Caddo, I.T. August 1902.

Settlement-

"I have a client who secured marriage license under the

Choctaw law on the 19th of this month to marry a Choctaw girl, and they were to have married to-day, he desires to appear before the Commission for enrollment as an intermarried citizen of the Choctaw Nation.

"Can he having married on the 20th day of August 1902 at this time be enrolled by the Commission as a intermarried citizen of the Choctaw Nation? And if you were to enroll him at this time and the supplement agreement should be ratified, what would be his status as an intermarried Citizen under Sections 28 and 34 of this agreement? Would he remain on the rolls as an intermarried Citizen or would he be stricken from the rolls? Please let me hear from you at once, so I can either send him or not as the case would or might be.

Yours truly,

J. L. Rappeelee."

EDMUND McLELLAN, recalled.

Examination by Mr. T. N. Foster.

Q. Did you employ Mr. Rappeelee to make an application for your wife? A. Yes, sir.

Q. Did he make such application? A. Yes, sir.

THE COMMISSION: How do you know? A. I was watching him.

THE COMMISSION: The question is, if Mr. Rappeelee made such an application, he is the man we want to see. The case must be entirely confined to that.

MR. FOSTER: I understand and I am confining it to that.

Q. Who mailed that application? A. I did.

Q. He gave it to you to mail? A. Yes, sir.

Q. Did he read it to you? A. Yes, sir.

Q. You know it was an application? A. Yes, sir.

Q. Did it contain a marriage license--marriage certificate?

A. Yes, sir, a certificate of marriage license.

Q. Of your marriage? A. Yes, sir.

Q. And you mailed it? A. Yes, sir.

Q. Was it in a return envelope? A. Yes, sir. A Rappeelee return envelope.

Q. You have never heard anything from it? A. No, sir.

Q. Now when was this? A. In 1902 some time.

Q. What month? A. The last of October or the 1st of November.

Q. You do not remember the date? A. No, sir.

Q. I will ask you whether or not you have ever gotten a second copy of the marriage certificate? A. We have got two.

MR. FOSTER: (Addressing the Commission).

Mr. Rappeelee's affidavit could not be considered in connection with this testimony; he must appear in person?

THE COMMISSION: Yes, sir.

Examination by the Commission.

- Q. Mr. McLellan, you say that Mr. Rappelee prepared this petition-
this application? A. Yes, sir.
Q. And gave it to you to mail? A. Yes, sir.
Q. Where did you mail it? A. At Caddo.
Q. Whereabouts? A. At the post office.
Q. Mailed it yourself? A. Yes, sir.
Q. On what date? A. I do not remember the date; the last of
October or the 1st of November.

WITNESS EXCUSED.

Mildred S. Cummings, being first duly sworn, states that
as stenographer to the Commission to the Five Civilized Tribes she
correctly reported the testimony and proceedings in the above
entitled cause, and that the foregoing is a true and correct tran-
script of her stenographic notes thereof.

Mildred Cummings

Subscribed and sworn to before me this 13th day of July, 1904.

Charles H. Sawyer
Notary Public.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
MUSKOGEE, I.T., JULY 14, 1904.

In the matter of the alleged application made by Belle McLellan, for enrollment as a citizen by intermarriage of the Choctaw Nation.

EDMUND McLELLAND, being first duly sworn, testified as follows:

THE COMMISSION:

- What is your name? A. Edmund McLellan.
- Q. Your age? A. Twenty-three.
- Q. You are the identical Edmund McLellan who was admitted to citizenship in the Choctaw Nation by a recent decree of the Choctaw and Chickasaw Citizenship Court? A. Yes, sir.
- Q. What is the name of your wife? A. Belle McLellan.

MR. FOSTER:

- What was the matter that your wife could not appear in person? A. She was pregnant.
- Q. You employed Mr. Rappelee to make this application for you and you mailed it? A. Yes, sir.
- Q. Did you hear what he wrote? A. Yes, sir.
- Q. He read it over to you? A. Yes, sir.
- Q. And he included in that application the marriage license? A. Yes, sir.
- Q. He sealed that up and gave it to you, addressed to the Dawes Commission? A. Yes, sir.
- Q. You mailed it at Caddo? A. Yes, sir.
- Q. Your judgment in the case was set aside immediately after that; soon after that? A. Yes, sir.
- Q. That is the reason that you did not follow it up at the time? A. Yes, sir.
- Q. As soon as your case was retried you re-opened this matter? A. Yes, sir.

WITNESS EXCUSED.

J. L. RAPPELEE, being first duly sworn, testified as follows:

THE COMMISSION:

- What is your name? A. J. L. Rappelee.
- Q. Your age? A. Thirty-eight.
- Q. Your post office address? A. Caddo.
- Q. What is your occupation? A. I am an attorney.

MR. POSTER:

Were you employed by Edmund McLellan here in 1902 to make an application to the Dawes Commission for him? A. Why Mr. McLelland came to me to get me to make out some papers for him for the purpose of making an application for his wife as an inter-married citizen, yes, sir. I do not consider that I was employed by him particularly; he said you represented him in his citizenship case.

Q. Did you make out an application? A. Yes, sir, I did.

Q. Did you include in that application the marriage certificate between them? A. Yes, sir; I attached the marriage certificate to the application.

Q. Did you read that to him? A. Yes, sir; that is, the application.

Q. Did you seal it up? A. Yes, sir.

Q. Was it in a return envelope? A. Yes, sir; one of mine.

Q. Did you address it to the Dawes Commission? A. Either to the Dawes Commission or to the Commission to the Five Civilized Tribes; sometimes I address it one way and sometimes another.

Q. At Muskogee? A. Yes, sir.

Q. What did you do with it? A. I gave it to Mr. McLelland to mail.

Q. And he went away with it for that purpose? A. Yes, sir.

Q. Did Mr. McLelland give you any reason why his wife was not present? A. Yes, sir.

Q. What was it? A. He said she was not able to appear anywhere.

Q. What time of year was it? A. As to that I am not exactly positive. My recollection is that it was in November of 1902.

Q. Before the rolls were closed? A. Yes, sir; that is my recollection.

THE COMMISSION:

You state that this was an application that was made; what was the form of it? A. Well, I could not exactly tell you the form of it; it is just like any other.

Q. A petition? A. Yes, sir.

Q. Sworn to? A. Yes, sir, by Mr. McLelland.

Q. Not by Belle McLelland? A. No, sir.

Q. Do you remember the contents of the petition? A. Why, I could not exactly tell you; it has been a good while ago and I have not taxed my memory but it was a formal petition.

Q. Drawn by Edmund McLellan for the enrollment of his wife Belle McLellan? A. Yes, sir. If you will permit me I will tell you why I did not tax my memory with the matter; they were married about the 6th of August, after the Supplemental agreement and under the provisions of a certain section of that, he married too late and I did not tax my memory much with it. That was my impression of it; I do not know anything about it but I judged it that way. However, I did not neglect any formalities on that ground.

WITNESS EXCUSED.

- 3 -

Mildred E. Cummings, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, she correctly reported the testimony and proceedings in the above entitled matter, and that the foregoing is a true and correct transcript of her stenographic notes thereof.

Mildred Cummings

Subscribed and sworn to before me this 14th day of July, 1904.

Charles H. Sawyer
Notary Public.

7-319

Muskogee, Indian Territory, July 18, 1904.

The Honorable,

The Secretary of the Interior,

Sir:

Receipt is hereby acknowledged of Departmental letter of June 30, 1904, (I.T.D. 4393-1904) with reference to a letter under date of June 16, 1904, from Townsend N. Foster, an attorney at law, South McAlester, Indian Territory, relative to the right of Belle McLellan, wife of Edmund McLellan, of Cadde, Indian Territory, to enrollment as a citizen by intermarriage of the Choctaw Nation.

Mr. Foster, in his letter of June 16, 1904, states that Edmund McLellan is a citizen by blood of the Choctaw Nation, having been admitted by a decision of the Choctaw and Chickasaw Citizenship Court and that his enrollment as such citizen has heretofore been approved by the Secretary of the Interior; that his wife, Belle McLellan, made application by letter within the time prescribed by the act of Congress approved July 1, 1902, to the Commission to the Five Civilized Tribes, being unable to attend in person on account of ill health; that she is an intermarried citizen of the Choctaw Nation, but that the Commission to the Five Civilized Tribes has made no record of her application.

That the judgment of the United States Court for the Central District of the Indian Territory, admitting her husband to citizenship in the Choctaw Nation was set aside by a decree of the Choctaw and Chickasaw Citizenship Court and that she was obliged to await the result of a new trial in her husband's case before she could have any standing upon which to prosecute her application; that this trial has been had and the result is known and she now desires to make her proof of right before the Commission.

In conclusion Mr. Foster requests the Department to direct the Commission to permit a hearing in the matter of the application of Belle McLellan for enrollment as a citizen by intermarriage of the Choctaw Nation.

The Department, in its letter of June 30, 1904, directed the Commission to allow Belle McLellan thirty days within which to submit such testimony as she may deem fit showing the time her application was made and the manner of making the same and that Mrs. McLellan and her attorney, Townsend H. Foster, be accordingly advised.

On July 7, 1904, Belle McLellan, at Caddo, Indian Territory, Townsend H. Foster, her attorney of record, at South McAlester, Indian Territory, and Messrs. Mansfield, Makhervey & Cornish, the attorneys for the Choctaw and Chickasaw Nations, at South McAlester, Indian Territory, were advised of Departmental instructions of June 30, 1904, and that the Commission would, at its office in Muskogee, In-

Indian Territory, up to and inclusive of Saturday, August 4, receive such testimony as might be offered showing the time when application was made by Belle McLellan for enrollment as an intermarried citizen of the Choctaw Nation and the manner of making such application.

On July 7, 1904, Mr. Foster served upon Mansfield, McKursey & Cornish, notice to the effect that he would present the testimony of Belle McLellan relative to her right to enrollment as an intermarried citizen of the Choctaw Nation at the office of the Commission in Muskogee, Indian Territory, on July 13, 1904.

At the office of the Commission in Muskogee, Indian Territory, on July 13, 1904, Belle McLellan, in company with her attorney, Townsend H. Foster, personally appeared before the Commission and her testimony was secured, as was also the testimony of Edmund McLellan, her husband, and Etta Hinkle, an employee of the Commission.

The hearing was continued until July 14 for the purpose of securing the testimony of J. L. Rappolee, an attorney at law of Cad-do, Indian Territory, who, it is alleged, prepared the petition for Mrs. McLellan's enrollment as a citizen by intermarriage of the Choctaw Nation.

Reporting in this matter the Commission has the honor to advise that Edmund McLellan, who is now about twenty-three years of age, was a party to an original application made to the Commission to the Five Civilized Tribes under the act of Congress approved June 10, 1896; that he was denied citizenship in the Choctaw Nation by the Commission, from which decision an appeal was taken to the United

States Court for the Central District of the Indian Territory and that he was admitted by a judgment of said court on August 24, 1897, which judgment was subsequently vacated and set aside by a decree of the Choctaw and Chickasaw Citizenship Court of December 17, 1902, in the case entitled The Choctaw and Chickasaw Nations or Tribes of Indians versus J. T. Riddle, et al.

The record in his case was subsequently transferred from the United States Court for the Central District of the Indian Territory to the Choctaw and Chickasaw Citizenship Court for a trial de novo and on March 21, 1904, in South McAlester case Number 10, the Choctaw and Chickasaw Citizenship Court rendered a decree admitting Edmund McLellan as a citizen by blood of the Choctaw Nation.

Upon the certification of this decree to the Commission to the Five Civilized Tribes the name of Edmund McLellan was included upon a schedule of citizens by blood of the Choctaw Nation and appears upon such partial roll approved by the Secretary of the Interior May 9, 1904, opposite Number 15312.

It further appears that Belle McLellan is the wife of Edmund McLellan and was married to him under a license issued by the Clerk of Fannin County, Texas, August 6, 1902. It does not appear from the records of the Commission that any personal application has been made by Belle McLellan for her enrollment as a citizen by intermarriage of the Choctaw Nation within the time prescribed by the provisions of the act of Congress approved July 1, 1902, (32 Stat.

641) and the only alleged application purported to have been made on her behalf is a written petition prepared by J. L. Rappelee, an attorney at law, of Caddo, Indian Territory, which it is alleged by Edmund McLellan was mailed by him in the latter part of October or the early part of November, 1902, to the Commission to the Five Civilized Tribes.

It does not appear that this alleged petition was sworn to by Belle McLellan and the only attempted application made in her behalf was the petition prepared by Mr. Rappelee at the suggestion of her husband, Edmund McLellan.

A thorough examination has been made of the records of the Commission and it does not appear that between the date of the ratification of the act of Congress approved July 1, 1902, and December 24, 1902, any application was received by the Commission for the enrollment of Belle McLellan as a citizen by intermarriage of the Choctaw Nation.

The Commission in its letter of November 20, 1903, to the Department fully explained the manner of the reception of applications of persons for enrollment as citizens of the Choctaw and Chickasaw Nations. It has always been the policy of the Commission to require that applicants for enrollment as citizens of the Choctaw and Chickasaw Nations personally present themselves before the Commission either at its office in Muskogee, Indian Territory, or of its appointments, for examination under oath, before

has been made of such application. This Belle McLellan has failed to do nor is it claimed that she has ever submitted any petition in writing within the time prescribed by the act of Congress approved July 1, 1902, (32 Stat., 641)

The Commission is firmly of the opinion that such testimony as has been submitted by Belle McLellan cannot be considered as even a constructive application made by her or on her behalf within the time prescribed by the provisions of the act of Congress approved July 1, 1902, (32 Stat., 641)

The Assistant Attorney General for the Department of the Interior, in his opinion of March 22, 1904, in the Chickasaw case of Esau Wolf held that:

"His application for enrollment made after the expiration of the time within which such applications might be received by the Commission to the Five Civilized Tribes could not be received by the Commission and he is not, under that law, entitled to enrollment."

Inasmuch as the Commission is of the opinion that no application was made by Belle McLellan for her enrollment as a citizen by intermarriage of the Choctaw Nation prior to December 24, 1902, and as the thirty-fourth section of the act of Congress approved July 1, 1902, (32 Stat., 641) specifically prohibits the reception of applications after that date, it is respectfully recommended that Belle McLellan be advised that the Commission to the

Five Civilized Tribes is now without authority to receive, consider or make any record of her application for enrollment as a citizen by intermarriage of the Choctaw Nation.

The letter of Townsend M. Foster, of June 16, 1904, with the proceedings had in this matter, is transmitted herewith.

Respectfully,

Tame Bixby.

Chairman.

T. B. Needles

Commissioner.

C. R. Breckinridge

Commissioner.

Through the Commissioner
of Indian Affairs.

Choctaw 3919

D.C. #857

C O P Y

J.W.H.

DEPARTMENT OF THE INTERIOR,
Washington. FHE.

I.T.D. 6728-1904.
9955- "

December 30, 1904.

L.R.S.

Commission to the Five Civilized Tribes,
Muskogee, Indian Territory.

Gentlemen:

The Department has considered your report of July 18, 1904, in connection with the testimony submitted therewith, relative to the enrollment of Belle McLellan as a citizen by intermarriage of the Choctaw Nation.

It appears that this applicant claims enrollment as the wife of Edmund McLellan, who was admitted to citizenship in the Choctaw Nation by the Choctaw-Chickasaw Citizenship Court on November 10, 1904, the only questions to be determined in the matter being whether application for Belle McLellan's enrollment was made in proper form and in due time.

In support of the contention that the application of Mrs. McLellan was made in proper manner, her husband testified that he mailed an application to your Commission during the latter part of October or early in November of 1902, with which was inclosed their marriage certificate, in an envelope bearing the return address of attorney J. L. Rappelee, who prepared the petition. The testimony of Mr. McLellan is corroborated by

that of said attorney in respect to the preparation of the petition, the attaching thereto of the marriage certificate, and the enclosing of both in an envelope of the kind described. Mrs. McLellan also testifies, concerning her knowledge of the affair as related to her at the time.

The strong presumption exists that the letter mailed by Mr. McLellan inclosed in an envelope bearing the return address of said attorney, did, in due course of the mails, arrive at its destination in proper time. To the contrary of the contentions of the applicant is the testimony of Rhette Hinkle, an employe of your Commission in charge of the mailing division. Notwithstanding the importance of the matter, it appears from her testimony that in searching the files of your Commission for letters written by Mr. Rappolee concerning this matter, she relied upon the briefing in the record book of letters received to ascertain the substance of Mr. Rappolee's letters to the Commission, and that she, to quote her own words, "did not take the letters out of the files."

In view of all the testimony presented, the Department is inclined to the view that the application of Mrs. McLellan was made in proper manner. See departmental letters of March 28, 1903, and October 3, 1904, relating, respectively, to the enrollment cases of Lafayette E. Brooks and Ozella Dendy.

It appears, however, from the allegations made on

behalf of the applicant, that her marriage to Edmund McLellan occurred August 5, 1902, and that her application for enrollment was made to your Commission late in October or early in November of that year. It is true that section 28 of the act of July 1, 1902 (32 Stat., 641), provides that persons entitled to enrollment as provided in the preceding section shall be placed upon the rolls made by your Commission. Said section 28 also provides that no person intermarried after the ratification of the Choctaw-Chickasaw agreement shall be entitled to enrollment. The right to enrollment as fixed by section 28 is modified, however, by section 34 of the same act, which extended, as to three classes of persons only, the time for receiving applications. Section 34 authorized you to receive the applications of intermarried white persons during the ninety days following the ratification of the Choctaw-Chickasaw agreement who were married on or before the date of the passage of the act by Congress, viz: July 1, 1902. Inasmuch as Mrs. McLellan was not married until after the passage of said act, your Commission was without authority to receive her application during the ninety days following the ratification of the agreement. Enrollment, under section 28, supra, is possible only where applicants made application within due time. See opinion of the Assistant Attorney General for this Department of March 22, 1904, in the Chickasaw enrollment case of Esau Wolf.

You are directed to advise Belle McLellan, and her attorney, T. N. Foster, of Caddo, I. T., that you are without authority to further consider her application.

A copy of Indian Office letter of August 18, 1904, transmitting your report of July 18, 1904, and concurring in your recommendation that the applicant be notified that you are without authority to receive or consider her application, is inclosed herewith.

Respectfully,

THOS RYAN

1 inclosure.

Acting Secretary.

C O P Y

Land
50159-1904.

DEPARTMENT OF THE INTERIOR,
Office of Indian Affairs,

Washington, August 18, 1904.

The Honorable,

The Secretary of the Interior.

Sir:-

Permit me to invite your attention to letter of the Commission to the Five Civilized Tribes of July 18, acknowledging receipt of Departmental letter of June 30, 1904, I.T.D. 4393-1904, with reference to a letter under date of June 16, from Townsend N. Foster, an attorney at law of South McAlester, Indian Territory, relative to the right of Belle McLellan, wife of Edmund McLellan, of Caddo, Indian Territory, to enrollment as a citizen by intermarriage of the Choctaw Nation.

Mr. Foster, in his letter of June 16, states that Edmund McLellan is a citizen by blood of the Choctaw Nation, having been admitted by decision of the Choctaw and Chickasaw Citizenship Court, and that his enrollment as such citizen has heretofore been approved by you; that his wife Belle McLellan, made application by letter within the time prescribed by the Act of Congress approved July 1, 1902, to the Commission to the Five Civilized Tribes, being unable to attend in person on account of ill health; that

she is an intermarried citizen of the Choctaw Nation; and that the Commission to the Five Civilized Tribes has made no record of her application.

The judgment of the United States Court for the Central District of Indian Territory, admitting her husband to citizenship in the Choctaw Nation was set aside by a decree of the Choctaw and Chickasaw Citizenship Court, and she was obliged to await the result of a new trial in her husband's case before she could have any standing upon which to prosecute her application; that this trial has been had and the result is known, and she now desires to make her proof of right before the Commission.

Mr. Foster requested the Department to direct the Commission to permit a hearing in the matter of the application of Belle McLellan for enrollment as a citizen by intermarriage of the Choctaw Nation.

The Department in its letter of June 30, directed the Commission to allow Belle McLellan thirty days within which to submit such testimony as she might deem fit, showing the time her application was made, and the manner of making it, and that Mrs. McLellan and her attorney, Townsend N. Foster, be accordingly advised.

On July 7, 1904, Belle McLellan; at Caddo, Indian Territory, Townsend N. Foster, her attorney of record, at South McAlester, and Messrs. Mansfield, McMurray & Cornish, the attorneys for the Choctaw and Chickasaw Nations, at South McAlester, were advised of Departmental instructions of June 30, and that the Commission

would, at its office in Muskogee, up to and inclusive of Saturday, August 6, receive such testimony as might be offered, showing the time when application was made by Belle McLellan for enrollment as an intermarried citizen of the Choctaw Nation, and the manner of making such application.

Upon July 7, 1904, Mr. Foster served upon Mansfield, McMurray and Cornish, notice to the effect that he would present the testimony of Belle McLellan relative to her right to enrollment as an intermarried citizen of the Choctaw Nation at the office of the Commission in Muskogee, on July 13, 1904.

At the office of the Commission in Muskogee on July 13, 1904, Belle McLellan in company with her attorney, Townsend N. Foster, personally appeared before the Commission and her testimony was secured, as was also the testimony of Edmund McLellan her husband, and Retta Hinkle, an employe of the Commission. The hearing was continued until July 14, for the purpose of securing the testimony of J. L. Rappelee, an attorney at law of Caddo, who it is alleged prepared the petition for Mrs. McLellan's enrollment as a citizen by intermarriage of the Choctaw Nation.

Reporting in this matter the Commission states that Edmund McLellan, who is now about twenty-three years of age, was a party to an original application made to the Commission under the Act of Congress approved June 10, 1896; that he was denied citizenship in the Choctaw Nation by the Commission, from which decision an

appeal was taken to the United States Court for the Central District of the Indian Territory, and that he was admitted by a judgment of that court on August 24, 1897, which judgment was subsequently vacated and set aside by a decree of the Choctaw and Chickasaw Citizenship Court of December 17, 1902, in the case entitled, The Choctaw and Chickasaw Nations or Tribes of Indians versus J. T. Riddle, et al.

The record in his case was subsequently transferred from the United States Court for the Central District of the Indian Territory, to the Choctaw and Chickasaw Citizenship Court for a trial de novo, and on March 21, 1904, in South McAlester case No. 10, the Choctaw and Chickasaw Citizenship Court rendered a decree admitting Edmund McLellan as a citizen by blood of the Choctaw Nation.

Upon the certification of this decree to the Commission, the name of Edmund McLellan was included upon a schedule of citizens by blood of the Choctaw Nation, and appears upon such partial roll approved by the Department May 9, 1904, opposite No. 15312.

The Commission says it further appears that Belle McLellan is the wife of Edmund McLellan, and was married to him under a license issued by the clerk of Fannin County, Texas, August 6, 1902. It does not appear from the records of the Commission that any personal application has been made by Belle McLellan for her enrollment as a citizen by intermarriage of the Choctaw Nation, within the time prescribed by the provisions of the Act of Congress approved

July 1, 1902, (32 Stats. 641), and the only application alleged to have been made on her behalf, is a written petition prepared by J. L. Rappolee, which it is alleged by Edmund McLellan was mailed by him in the latter part of October or the early part of November, 1902, to the Commission.

Further the Commission says it does not appear that this alleged petition was sworn to by Belle McLellan, and the only attempted application made in her behalf was the petition prepared by Mr. Rappolee, at the suggestion of her husband, Edmund McLellan.

A thorough examination has been made of the records of the Commission, and it does not appear that between the date of the ratification of the Act of Congress approved July 1, 1902, to December 24, 1902, any application was received by the Commission, for the enrollment of Belle McLellan, as a citizen by intermarriage of the Choctaw Nation.

The Commission in its letter of November 20, 1903, to the Department, explained the manner of the reception of applications of persons for enrollment as citizens of the Choctaw and Chickasaw Nations. It has always been the policy of the Commission to require that applicants for enrollment as citizens of the Choctaw and Chickasaw Nations, personally present themselves before it at its office in Muskogee, or at one of its appointments for examination under oath, before any record has been made of such applications. This, Belle McLellan has failed to do, nor is it claimed that she

has ever submitted any petition in writing within the time prescribed by the Act of Congress approved July 1, 1902, (32 Stats., 641).

The Commission is firmly of the opinion that such testimony as has been submitted by Belle McLellan cannot be considered as even a constructive application made by her, or on her behalf, within the time prescribed.

The Commission quotes from the opinion of the Assistant Attorney General for the Department of the Interior of March 22, 1904, in the Chickasaw case of Esau Wolf, as follows:-

His application for enrollment made after the expiration of the time within which such applications might be received by the Commission to the Five Civilized Tribes could not be received by the Commission, and he is not, under that law, entitled to enrollment.

Inasmuch as the Commission is of the opinion that no application was made by Belle McLellan for her enrollment as a citizen by intermarriage of the Choctaw Nation, prior to December 24, 1902, and as the Thirty-fourth Section of the Act of Congress approved July 1, 1902, specifically prohibits the reception of applications after that date, it is recommended that Belle McLellan be advised that the Commission is now without authority to receive, consider or make any record of her application for enrollment as a citizen by intermarriage of the Choctaw Nation.

It is shown in this record that the files of the Commission do not disclose any application, either formal or informal, for

the enrollment of Belle McLellan, within the time prescribed by the law. J. L. Rappolee testifies that he prepared an application, which was signed by Edmund McLellan some time in November, 1902, but his recollection is not clear as to the form of the application or as to whether it was addressed to the Commission to the Five Civilized Tribes or to the Daves Commission. Mr. McLellan testifies to having mailed this application at Caddo. Mr. Rappolee is uncertain as to very essential elements as to what would constitute satisfactory proof so far as his agency in the matter is concerned. The fact that the records of the Commission do not disclose the receipt of any communication whatever from him with reference to the claims of Belle McLellan, during November or December, 1902, goes far towards discrediting the accuracy of his recollection. Mr. McLellan's testimony as to the preparation of the application and its mailing is not sufficient, in view of the fact that reliance must be placed solely and alone, so far as the mailing of the application is concerned, upon his testimony, to outweigh the evidence of the records of the Commission, which support the conclusion of the Commission that no such application was received in its office. It is therefore my judgment, that Mrs. McLellan has not, by the greater weight of evidence, established, that she did within the time required by law, file an application with the Commission for enrollment as an intermarried citizen of the Choctaw Nation, and I, therefore, concur in the recommendation

-8-

of the Commission, that she be notified that the Commission is now without authority to receive or consider her application for enrollment as a citizen by intermarriage of the Choctaw Nation.

Very respectfully,

W. A. Jones,

Commissioner.

EBH-AAG

Muskogee, Indian Territory, January 11, 1905.

Belle McJellan,

Watt, Indian Territory,

Dear Madam:

For your information there is inclosed you herewith copy of Departmental letter of December 30, 1904, (I. T. D. 6728,9955-1904) holding that the Commission is now without authority to receive or consider the application of Belle McJellan for enrollment as an intermarried citizen of the Choctaw Nation, accompanied by the report of the Commissioner of Indian Affairs of August 18, 1904, in reference thereto.

Respectfully,

Tams Bixby.

Chairman.

AB 1-11

Muskogee, Indian Territory, January 11, 1905.

Townsend H. Foster,

Attorney at Law,

South McAlester, Indian Territory,

Dear Sir:

For your information there is inclosed you herewith copy of Departmental letter of December 30, 1904, (I. T. D. 6728, 9955-1904) holding that the Commission is now without authority to receive or consider the application of Belle McEllan for enrollment as an intermarried citizen of the Choctaw Nation, accompanied by the report of the Commissioner of Indian Affairs of August 18, 1904, in reference thereto.

Respectfully,

Tame Bixby.

Chairman.

AB 2-11

Muskogee, Indian Territory, January 11, 1905.

Mansfield, McMurray & Cornish,

Attorneys for the Choctaw and Chickasaw Nations,

South McAlester, Indian Territory,

Gentlemen:

For your information there is inclosed you herewith copy of Departmental letter of December 30, 1904, (I. T. D. 6728, 9955-1904) holding that the Commission is now without authority to receive or consider the application of Belle McJellan for enrollment as an intermarried citizen of the Choctaw Nation, accompanied by the report of the Commissioner of Indian Affairs of August 16, 1904, in reference thereto.

Respectfully,

Tams Bixby.

Chairman.

AB 3-11

MOTION TO RE-OPEN

AND
RE-CONSIDER

In the matter of the ap-
plication for the enroll-
ment of Belle McLellan
as a citizen by inter-
marriage of the Choctaw
Nation.

DEPARTMENT OF THE INTERIOR

Commissioner to the Cherokee Nation

FILED

1905

Conservation

GUY P. COBB

ATTORNEY AT LAW

ARDMORE, IND. TER.

DEPARTMENT OF THE INTERIOR.
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.
.....

In the matter of the application
for the enrollment of Belle McLelland
as a citizen by intermarriage of the
Choctaw Nation.

.....

NOTION TO RE-OPEN
AND
RE-CONSIDER

Comes now Belle McLelland by her attorney Guy P. Cobb, and
moves that the above entitled case be re-opened and the decision of
the Commissioner be reconsidered, and that she be enrolled as an
intermarried citizen of the Choctaw Nation, under the provisions of
Section one, of the act of Congress approved April 26th. 1906 upon
the following grounds.

First. The record in this case shows that on or about the
5th. day of August 1902 Belle McLelland a white woman married Ed-
mond McLabland a regularly enrolled and recognized citizen of the
Choctaw Nation and that ~~an application~~ application for her en-
rollment was made late in October or early in November 1902 and that
on the 13th. day of July 1904 Belle McLelland made personal appear-
ance before the Commissioner at Muskogee and made application for
enrollment as an intermarried citizen, such application was refused.

Application for enrollment in this case was made prior to ~~XXXX~~
December 1st. 1905 and the records in charge of the Commissioner to
the Five Civilized Tribes show application to have been so made,
and the case under consideration is clearly within the general pro-
visions of the section above referred to.

Second, that the applicant was married in accordance with the
laws and customs of the Choctaw Nation to a recognized citizen of
said Nation, and that such marriage was equivalent to her name ap-
pearing upon the Tribal Rolls, that the application in this case
was made prior to December 1st. 1905, and was not allowed solely

because not made within the time prescribed by law, and that the case now under consideration comes within the final proviso of the section above referred to.

Guy F. Cook
Attorney for applicant.

G.R.

DEPARTMENT OF THE INTERIOR,
WASHINGTON

LIB

I.T.D. 17110-1906.
D. C. 41528

September 18, 1906.

SRS.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

June 26, 1906, you transmitted a motion for reopening and reconsideration of the application of Belle McGlellan for her enrollment as an intermarried citizen of the Choctaw Nation, filed with your office June 22, 1906.

Upon consideration of said motion, the Department, in conformity with the approved opinions of the Assistant Attorney-General for this Department dated August 10, 1906, in the cases of Elsie J. Oakes (I.T.D. 14010) and Birdie Rosenthal (I.T.D. 14012), for enrollment as intermarried citizens of the Choctaw Nation, and in view of section 1 of the act of Congress approved April 26, 1906 (34 Stat., 137), providing for the consideration of applications for enrollment as citizens of the Choctaw Nation where the records of your office show application therefor was made prior to December 1, 1905, and which was not allowed solely because not made within the time prescribed by law, rescinds its action of December 30, 1904 (I.T.D. 6728), holding that the Commission was without authority to further consider said application

Said motion for rehearing is hereby granted, and the original record, with the papers filed on motion for respining, is remanded to you for a rehearing and readjudication in accordance with the act of April 26, 1906.

Respectfully,

Jesse E Wilson

Assistant Secretary.

2 inclosures.

Through the Commissioner
of Indian Affairs.

Memo. 1.

Muskogee, Indian Territory, October 1, 1906.

Belle McClellan,
Caddo, Indian Territory.

Dear Madam:

September 18, 1906, the Department granted a motion for rehearing filed in the matter of your application for enrollment as a citizen by intermarriage of the Choctaw Nation, and in view of the provisions of the Act of Congress approved April 26, 1906 (34 Stat., 137), remanded said case for rehearing and readjudication.

In accordance therewith you are advised that the Commissioner to the Five Civilized Tribes will, at his office at Muskogee, Indian Territory, on Tuesday, October 16, 1906, at nine o'clock A. M. hear such testimony and receive such other evidence as may be submitted in support of said application.

Your attorney, Guy P. Cobb, of Ardmore, Indian Territory, has been forwarded similar notice.

Respectfully,

Commissioner.

Vemo. 1.

Muskogee, Indian Territory, October 1, 1906.

Guy P. Cobb,
Attorney at Law,
Ardmore, Indian Territory.

Dear Sir:

September 18, 1906, the Department granted a motion filed for rehearing in the matter of the application for the enrollment of Belle McClellan as a citizen by intermarriage of the Choctaw Nation, and in view of the provisions of the Act of Congress approved April 26, 1906 (34 Stats., 137), remanded said cause for rehearing and readjudication.

In accordance therewith you are advised that the Commissioner to the Five Civilized Tribes will, at his office at Muskogee, Indian Territory, on Tuesday, October 16, 1906, at nine o'clock A. M., hear such testimony and receive such other evidence as may be submitted in support of said application.

For your information a copy of Departmental letter is inclosed herewith.

Respectfully,

Commissioner.

LBA 1/1.

Memo. 1.

Muskogee, Indian Territory, October 1, 1906.

Mansfield, McMurray & Cornish,
Attorneys for the Choctaw and Chickasaw Nations,
McAlester, Indian Territory.

Gentlemen:

September 18, 1906, the Department granted a motion filed for rehearing in the matter of the application for the enrollment of Belle McClellan as a citizen by intermarriage of the Choctaw Nation, and in view of the provisions of the Act of Congress approved April 26, 1906 (34 Stats., 137), remanded said cause for rehearing and readjudication.

In accordance therewith you are advised that the Commissioner to the Five Civilized Tribes will, at his office at Muskogee, Indian Territory, on Tuesday, October 16, 1906, at nine o'clock A. M., hear such testimony and receive such other evidence as may be submitted in support of said application.

For your information a copy of Departmental letter is inclosed herewith.

Respectfully,

Commissioner.

LBA 1/2.

Memo. 1.

Department of the Interior,
Commissioner to the Five Civilized Tribes.
Muskogee, Indian Territory, October 16, 1906.

In the matter of the application for the enrollment of
Belle McLellan as a citizen by intermarriage of the Choctaw Nation.

-----ooOoo-----

September 18, 1906, the Department in view of Section One of the Act of Congress approved April 26, 1906 (34 Stats., 137), granted a motion of reconsideration filed in the matter of the application for the enrollment of Belle McLellan as a citizen by intermarriage of the Choctaw Nation, and rescinded its action of December 30, 1904, holding that the Commission was without authority to further consider said application.

October 1, 1906, this office advised the applicant, Belle McLellan, her attorney, Guy P. Cobb, of Ardmore, Indian Territory, and Mansfield, McMurray & Cornish, attorneys for the Choctaw and Chickasaw Nations, of South McAlester, Indian Territory, of the action of the Department, and notified them that the Commissioner to the Five Civilized Tribes would at his office at Muskogee, Indian Territory, on Tuesday, October 16, 1906, at nine o'clock A. M., hear such testimony and receive such other evidence as might be submitted in support of said application.

Now on this 16th day of October, 1906, the applicant and her husband, appearing in person, state that they have received a telegram from Guy P. Cobb, their attorney, wherein he advised them not to testify before this office on this date. The applicant and her husband refuse to submit any testimony in the matter of this application.

Lenora B. Ashton, as stenographer to the Commissioner to the Five Civilized Tribes, on oath states that she reported the proceedings had in the above entitled cause on the 16th day of October, 1906, and that the above and foregoing transcript is a true and complete translation of her stenographic notes.

Subscribed and sworn to before me this 18th day of October, 1906.

Lenora B. Ashton.
Chas. H. Webster
Notary Public.

Page--1.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES,
MUSKOGEE, INDIAN TERRITORY, OCTOBER 20, 1906.

In the matter of the application for the enrollment of
Belle McLellan as a citizen by intermarriage of the Choctaw
Nation.

{ W. J. Sullivan, attorney at law, Muskogee, Indian
Territory, appears on behalf of the applicant.
APPEARANCES { No appearance on the part of the Choctaw and Chick-
asaw Nations.

BELLE McLELLAN, being first duly sworn by W. W. Chappell, testi-
fied as follows:

(By the Commissioner)

Q What is your name? A Belle McLellan.
Q How old are you? A 24.
Q What is your post office address? A Alma, Indian Territory.
Q Through whom do you claim your right to enrollment as a citizen
by intermarriage of the Choctaw Nation? A Through my husband.
Q Well, what is his name? A Ed McLellan.
Q What is the name of his father? A Jeff McLellan.
Q What is the name of his mother? A Sarah McLellan.
Q Sarah? A Yes sir, Sarah McLellan.

Edmund McLellan, through whom the applicant claims her
right to enrollment as a citizen by intermarriage of the
Choctaw Nation, is identified upon Choctaw Field Card No.
3919, opposite No. 15312, approved by the Secretary of the
Interior May 9, 1904.

Q What is the name of your father? A Jack Browder.
Q What is the name of your mother? A Maggie Browder.
Q Both white people, citizens of the United States? A Yes sir.
Q Either of them living? A No sir.
Q Where were you born? A Born in Fannin County, Texas.
Q When did you come to the Indian Territory? A Five years ago.
Q What year was it? A 1902.
Q What month in '92 did you come? A In August.
Q When were you married to Edmund McLellan? A August 8, 1902.
Q At that time were you living in Texas? A Yes sir.
Q The same day you were married did you come to the Indian Territo-
ry? A Came the same day, August 8th.

Belle McLellan---2

- Q You had never resided here prior to that time? A No sir.
Q Where was your husband living when you were married? A In the Indian Territory, at Caddo.
Q Who married you? A Bonnie Grimes.
Q What is he? A He is a minister.
Q Where does he live? A He lives at Leonard, Texas.
Q Did you get a certificate of marriage? A Yes sir.
Q Have you got it now? A No sir, it is here I suppose.
Q Have you had any children born since you were married? A Yes.
Q Been enrolled? A Yes sir.
Q Where have you lived since your marriage with McLellan?
A I lived at Caddo three years, and out in the country, been living down there yet in the Chickasaw Nation.
Q Had you ever been married prior to your marriage with Edmund McLellan? A No sir.
Q Had Edmund McLellan ever been married before his marriage to you? A No sir.

(By Mr. Sullivan)

The applicant requests that the marriage certificate, which is filed with and made a part of the record in the matter of the application of Stella McLellan, (7 M.B. 571), or a copy thereof, be filed with and made a part of the record in this case.

- Q Mrs. McLellan, you say that you were married on the 6th day of August, 1902? A Yes sir.
Q That marriage took place in the state of Texas? A Yes sir.
Q On the same day that you were married you and your husband removed to the Indian Territory? A Yes sir.
Q To what place? A Caddo.
Q Since your marriage have you lived outside, or made your home outside of the Indian Territory? A No sir.
Q Are you still a resident of the Indian Territory? A Yes sir.

Witness excused.

EDMUND McLELLAN, being first duly sworn by W. W. Chappell, testified as follows:

(By the Commissioner)

- Q What is your name? A Edmund McLellan.
Q Have you ever been enrolled as Edmund B. McLellan? A Yes sir.
Q What is your middle name? A Burt.
Q What is the name of your father? A Jeff McLellan.
Q What is his other name? A Samuel, Samuel Jeff.
Q What is the date of your marriage to Belle McLellan?
A August 6th.
Q What year? A 1902.
Q Where was your home at the time you married Belle McLellan?
A In the Indian Territory.
Q At what place? A Caddo.
Q Where did you meet your wife? A In Texas.
Q Had you been living there? A What?

Nelle McLellan-----3

- Q Had you been living in Texas? A No sir. No sir, Oh, where did I meet my wife, I met her in the Indian Territory.
Q Was she living here at that time? A No sir, she was teaching school.

(By Mr. Sullivan)

- Q Did You ever live in Texas? A Yes sir.
Q When? A I lived in Texas until I was eight years old.
Q How old are you now? A 25
Q Have you been living in the Indian Territory from the time that you were eight years old up to the present time? A Yes.

Witness excused.

-----00-----

Kate DeBord, stenographer to the Commissioner to the Five Civilized Tribes, being first duly affirmed, states that she correctly reported all proceedings had in the above entitled and numbered cause on the 20th day of October, 1906, and that the above and foregoing is a full, true and correct transcript of her stenographic notes taken therein on said date.

Kate DeBord.

Subscribed and affirmed to before me this 22nd day of October, 1906.

Walter W. Chappell

Notary Public.

Memo. 1.
O.L.J.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the alleged application for the enrollment of Belle McLellan as a citizen by intermarriage of the Choctaw Nation.

-----ooOoo-----

The Department on June 30, 1904 (I.T.D. 4983-1904), directed the Commission to the Five Civilized Tribes to allow the applicant, Belle McLellan, thirty days within which to submit such testimony as she might deem proper for the purpose of establishing whether or not application was made for her enrollment as a citizen by intermarriage of the Choctaw Nation within the time limited by the provisions of the Act of Congress approved July 1, 1902 (32 Stats., 641).

On July 7, 1904, the Commission to the Five Civilized Tribes advised the applicant, her attorney, and the attorneys for the Choctaw and Chickasaw Nations, that said Commission would at its office at Muskogee, Indian Territory, up to and inclusive of August 6, 1904, receive such testimony as might be offered relative to her alleged application for enrollment as a citizen by intermarriage of the Choctaw Nation.

Proceedings were had in the matter of said application at Muskogee, Indian Territory, on July 13, 1904.

On July 18, 1904, the Commission to the Five Civilized Tribes reporting therein stated that the evidence failed to establish that any application was made for the enrollment of Belle McLellan as a citizen by intermarriage of the Choctaw Nation within the time limited by the provisions of the Act of Congress approved July 1, 1902 (32 Stats., 641), and recommended that said applicant be advised that said Commission was without authority to receive, consider or make any record of her application for enrollment as a citizen by intermarriage of the Choctaw Nation. Said recommendation was approved by the Department on December 30, 1904 (I.T.D. 6728, 9955-1904).

The Department on September 18, 1906 (I.T.D. 17110-1906), in view of Section One of the Act of Congress approved April 26, 1906 (34 Stats., 137), rescinded its action of December 30, 1904, and remanded said case for rehearing and readjudication in accordance with the provisions of said act.

I am of the opinion that the records in the possession of the Commissioner to the Five Civilized Tribes show that application was made for the enrollment of Belle McLellan as a citizen by intermarriage of the Choctaw Nation within the time limited by the pre-

visions of the Act of Congress approved April 26, 1906 (34 Stats., 137), and that the same should now be determined upon its merits, and it is so ordered.



Commissioner.

Muskogee, Indian Territory,

OCT 28 1906

Memo. 1.
O.L.J.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of
Belle McLellan as a citizen by intermarriage of the Choctaw Nation.

D E C I S I O N.

It appears from the record herein that application was
duly made for the enrollment of Belle McLellan as a citizen by
intermarriage of the Choctaw Nation within the time limited by the
provisions of the Act of Congress approved April 26, 1906 (34
Stats., 137).

It further appears from the record herein that on August
6, 1902, the applicant, Belle McLellan, was lawfully married to
Edmund McLellan, a recognized and enrolled citizen by blood of the
Choctaw Nation, whose name appears as No. 15312 upon the final roll
of citizens by blood of the Choctaw Nation, approved by the Secre-
tary of the Interior May 9, 1904; that at the time of said marriage
the applicant was a resident of the State of Texas; that Edmund
McLellan was a resident of the Choctaw Nation; and that they lived
together continuously as husband and wife in the Choctaw Nation from
the date of their said marriage up to and including September 25,
1902.

I am, therefore, of the opinion that Belle McLellan
should be enrolled as a citizen by intermarriage of the Choctaw
Nation under the provisions of the Acts of Congress approved June
28, 1898 (30 Stats., 495) and July 1, 1902 (32 Stats., 641), and
it is so ordered.



Commissioner.

Muskogee, Indian Territory,

NOV -6 1906

Memo 1

Muskogee, Indian Territory, November 6, 1906.

Belle McLellan,

Alma, Indian Territory.

Dear Madam :--

Enclosed herewith you will find a copy of the decision of the Commissioner to the Five Civilized Tribes, rendered 1906, granting your application for enrollment as a citizen by intermarriage of the Choctaw Nation.

The Attorneys for the Choctaw and Chickasaw Nations have been furnished a copy of this decision and have been allowed fifteen days from the date of this notice within which to file protest against your enrollment. If at the expiration of that time no protest has been filed, the name of Belle McLellan will be placed upon the final roll of citizens by intermarriage of the Choctaw Nation to be submitted to the Secretary of the Interior for his approval.

Respectfully,

Commissioner.

Registered.

Encl. Memo 1.

Memo 1

Muskogee, Indian Territory, November 6, 1906.

Guy P. Cobb,

Attorney at Law,

Ardmore, Indian Territory.

Dear Sir :--

You are hereby notified that the Commissioner to the Five Civilized Tribes, on November 1, 1906, rendered his decision granting the application for the enrollment of Belle McLellan as a citizen by intermarriage of the Choctaw Nation.

The Attorneys for the Choctaw and Chickasaw Nations have been furnished a copy of the decision and have been allowed fifteen days from the date of this notice within which to file protest against her enrollment. If at the expiration of that time no protest has been filed, the name of Belle McLellan will be placed upon the final roll of citizens by intermarriage of the Choctaw Nation to be submitted to the Secretary of the Interior for his approval.

Respectfully,

Commissioner.

Registered.

Memo 1

Muskogee, Indian Territory, November 6, 1906

W. J. Sullivan,
Attorney at Law,
Muskogee, Indian Territory.

Dear Sir :--

You are hereby notified that the Commissioner to the Five Civilized Tribes, on November 6, 1906, rendered his decision granting the application for the enrollment of Belle McLellan as a citizen by intermarriage of the Choctaw Nation.

The attorneys for the Choctaw and Chickasaw Nations have been furnished a copy of the decision and have been allowed fifteen days from the date of this notice within which to file protest against her enrollment. If at the expiration of that time no protest has been filed, the name of Belle McLellan will be placed upon the final roll of citizens by intermarriage of the Choctaw Nation to be submitted to the Secretary of the Interior for his approval.

Respectfully,

Commissioner.

Registered.

Memo 1

Muskogee, Indian Territory, November 6, 1906

Manfield, McMurray & Cornish,
Attorneys for Choctaw & Chickasaw Nations,
South McAlester, Indian Territory.

Gentlemen :--

Enclosed herewith you will find a copy of the decision of the Commissioner to the Five Civilized Tribes, rendered November 6, 1906, granting the application for the enrollment of Belle McLellan as a citizen by intermarriage of the Choctaw Nation.

You are hereby advised that you will be allowed fifteen days from the date of this notice within which to file protest against her enrollment. If at the expiration of that time no protest has been filed, the name of Belle McLellan will be placed upon the final roll of citizens by intermarriage of the Choctaw Nation to be submitted to the Secretary of the Interior for his approval.

Respectfully,

Commissioner.

Registered.

Encl. memo 1.

copy.
Muskogee, Indian Territory, November 6, 1906.

The Honorable,

The Secretary of the Interior.

Sir:

June 30, 1904 (I.T.D. 4993-1904), the Department directed the Commission to the Five Civilized Tribes to allow Belle McLellan to submit evidence tending to show that application was made for her enrollment as a citizen by intermarriage of the Choctaw Nation, within the time provided by the Act of Congress approved July 1, 1902.

July 13, and 14, 1904, testimony was submitted in support of this contention. July 18, 1904, the Commission to the Five Civilized Tribes reported to the Department that it did not appear that application had been made for the enrollment of Belle McLellan as an intermarried citizen of the Choctaw Nation prior to December 24, 1902 and recommended that Belle McLellan be advised that said Commission was without authority to receive, consider or make any record of her application for enrollment as a citizen by intermarriage of said nation.

December 30, 1904 (I.T.D. 6728, 9955-1904), the Department concurred in the recommendation of this office.

Secretary 2.

June 26, 1906, a motion for a reopening and reconsideration of the application of Belle McLellan for enrollment as an intermarried citizen of the Choctaw Nation was transmitted to the Department and on September 18, 1906, (I.T.D. 17110-1906), the case was remanded for rehearing and readjudication under the Act of Congress approved April 26, 1906.

October 20, 1906, a hearing was had in this case and on October 28, 1906, an order was entered holding that application was made for the enrollment of Belle McLellan within the time provided by the Act of Congress approved April 26, 1906.

I now have the honor to transmit, with the return of the original record in the case, the additional proceedings and my decision of November 6, 1906, enrolling Belle McLellan as a citizen by intermarriage of the Choctaw Nation.

The applicant, her attorney, and the attorneys for the Choctaw and Chickasaw Nations have been notified of this action and the attorneys for the Choctaw and Chickasaw Nations have been allowed fifteen days from the date of this notice within which to file protest against her enrollment. If at the expiration of that time no protest has been filed, the name of Belle McLellan will be placed upon a schedule of citizens by intermarriage of the Choctaw Nation, prepared for forwarding the Secretary of the Interior.

Respectfully,

Through the
Commissioner of Indian Affairs.

Tamie T. Webb
Commissioner.

G. R.

DEPARTMENT OF THE INTERIOR, LLE

D. C. 6301-1907.
I. T. D. 24794-1906.
1462-1907.

WASHINGTON.

January 29, 1907.

L. R. S.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir: .

November 6, 1906, you^u submitted the record in the matter of the application of Belle McLellan for her enrollment as an intermarried citizen of the Choctaw Nation, remanded for rejudication under the act of Congress of April 26, 1906 (34 stats., 137).

You held November 6, 1906, that Belle McLellan is now entitled to enrollment as an intermarried citizen of the Choctaw Nation, having been lawfully married in Pannin County, Texas, on August 6, 1902, to Edmund McLellan, a recognized and enrolled citizen by blood of the Choctaw Nation, whose name appears opposite No. 15312 upon the approved final rolls of citizens by blood of the Choctaw Nation.

January 3, 1907, you reported that no protest had been filed by the Choctaw Nation against your decision of November 6, 1906, enrolling Belle McLellan as an intermarried citizen of the Choctaw Nation.

In accordance with the recommendation of the commissioner of Indian Affairs of December 7, 1906 (Land 99861), copy whereof is inclosed, your decision of November 6, 1906, admitting to enrollment Belle McLellan as an intermarried citizen of the Choctaw Nation, is hereby affirmed.

-2-

You will advise applicant and her attorney of this action.

The papers in the case have been sent to the Indian Office for its files.

Respectfully,

Thos. Ryan,

First Assistant Secretary.

Through the Commissioner
of Indian Affairs.

1 inc. and 4 to Ind. Of.

--Copy--

LAND:
99861-1906.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

December 7, 1906.

The Honorable,

The Secretary of the Interior.

Sir:

Referring to Departmental letter of June 30, 1904, (I. T. D. 4993-1904), directing the Commission to the five Civilized Tribes to allow Belle McLellan to submit evidence tending to show that application had been made for her enrollment as a citizen by intermarriage of the Choctaw Nation, within the time provided by the Act of Congress approved July 1, 1902, I have the honor to transmit herewith a communication from the Commissioner to the five Civilized Tribes, dated November 6, 1906, enclosing the record in this case showing the proceedings subsequent to June 30, 1904, the last action of the Commissioner having been taken under a motion for reopening and reconsideration of the case, filed under Act of Congress approved April 26, 1906, together with an order made by the Commissioner November 6, 1906, enrolling Belle McLellan as a citizen by intermarriage of the Choctaw Nation.

The Commissioner says that the attorneys for the Chickasaw and Choctaw Nation have been notified of his action and that they have been allowed fifteen days from the date of notice within which to file a protest against her enrollment, and that if, at

-2-

the expiration of that time no protest has been filed, her name will be placed upon a schedule of citizens by intermarriage of the Choctaw Nation, and forwarded to the Department for approval.

Very respectfully,

C. F. Larrabee,

Acting Commissioner.

KVB-EH

--Copy--

LAND:
1315-1907.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

January 21, 1907.

The Honorable,
The Secretary of the Interior.

Sir:

There is forwarded herewith report of Commissioner Bixby, dated January 3, 1907, made in response to Departmental letter of December 20, 1906 (I. T. D. 24794-1906), requesting information as to whether a protest has been filed by the attorneys for the Choctaw and Chickasaw Nations in the matter of the application for the enrollment of Belle McLellan as a citizen by intermarriage of the Choctaw Nation.

The Commissioner reports that no protest has been filed by the attorneys to the decision of the commissioner to the Five Civilized Tribes dated November 6, 1906, granting the application for her enrollment.

Very respectfully,

C. F. Larrabee,
Acting Commissioner.

AJW-EH.

7-5048

Muskogee, Indian Territory, February 19, 1907.

Belle McLellan,

Alma, Indian Territory.

Dear Madam:

You are hereby notified that on January 29, 1907, the Secretary of the Interior affirmed the decision of the Commissioner to the Five Civilized Tribes granting the application for your enrollment as a citizen by intermarriage of the Choctaw Nation.

You are further advised that your name has been placed upon a schedule of citizens by intermarriage of the Choctaw Nation which has been submitted to the Secretary of the Interior for his decision and you will be notified of Departmental action thereon.

Respectfully,

Commissioner.

7-6048

Muskogee, Indian Territory, February 19, 1907.

Guy P. Cobb,

Attorney at Law,

Ardmore, Indian Territory.

Dear Sir:

You are hereby notified that on January 29, 1907, the Secretary of the Interior affirmed the decision of the Commissioner to the Five Civilized Tribes granting the application for the enrollment of Belle McLellan as a citizen by intermarriage of the Choctaw Nation.

You are further advised that the name of Belle McLellan has been placed upon a schedule of citizens by intermarriage of the Choctaw Nation which has been submitted to the Secretary of the Interior for his decision and you will be notified of Departmental action thereon.

Respectfully,

Commissioner.

7-6048

Muskogee, Indian Territory, February 19, 1907.

W. J. Sullivan,

Attorney at Law,

Muskogee, Indian Territory.

Dear Sir:

You are hereby notified that on January 29, 1907, the Secretary of the Interior affirmed the decision of the Commissioner to the Five Civilized Tribes granting the application for the enrollment of Belle McLellan as a citizen by intermarriage of the Choctaw Nation.

You are further advised that the name of Belle McLellan has been placed upon a schedule of citizens by intermarriage of the Choctaw Nation which has been submitted to the Secretary of the Interior for his decision and you will be notified of Departmental action thereon.

Respectfully,

Commissioner.

Muskogee, Indian Territory, February 19, 1907.

Mansfield, McMurray & Cornish,

Attorneys for the Choctaw and Chickasaw Nations,
South McAlester, Indian Territory.

Gentlemen:

You are hereby notified that on January 29, 1907, the Secretary of the Interior affirmed the decision of the Commissioner to the Five Civilized Tribes granting the application for the enrollment of Belle McLellan as a citizen by intermarriage of the Choctaw Nation.

You are further advised that the name of Belle McLellan has been placed upon a schedule of citizens by intermarriage of the Choctaw Nation which has been submitted to the Secretary of the Interior for his decision and you will be notified of Departmental action thereon.

Respectfully,

Commissioner.

THE
OFFICE OF THE
S. O. S.
S. O. S.
S. O. S.

OCT 19 1906

THE
S. O. S.
S. O. S.
S. O. S.

2100 P.O.
McClelland as A Citizen of the Choctaw Nation, by intermarriage.

=====

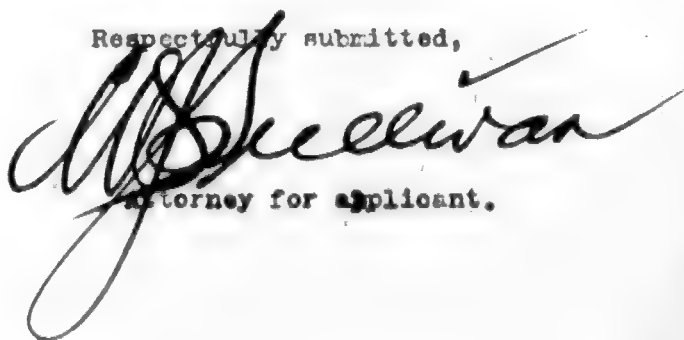
Memo.1.

+++++

Before The Honorable, Commissioner to the Five Civilized Tribes:

.....
Comes now the applicant, Belle McClelland, through her Attorney, W.J. Sullivan and asks that the time heretofore set for a hearing in her said case, to wit; October 16th. 1906, be extended and that said hearing be had on the 20th. day of October, at the hour of two O'Clock in the afternoon, she assigns as her reason for non-compliance with the date heretofore set, that on said date she was unrepresented by counsel, and ignorant of the rules and regulations of the Honorable Commissioner assumed that an extension of time would be given, irrespective of notice to the Attorneys for the Choctaw Nation, she lives more than 20 miles from a Railway Station, and the hardship of again coming to Muskogee is such that this request is made, she further asks this hearing be had on the date and time asked for the reason that she is here under expense, and to return home and again appear would cause needless expense and annoyance and time, she agrees that if this motion is granted, all rights of the Nation insofar as her said case is involved will be readily agreed to, and now and here commits herself to any extension of time deemed proper by the Honorable Commissioner, to the end that the Choctaw Nation may introduce evidence in controversion of her allegations and proof herein.

Respectfully submitted,


Attorney for applicant.

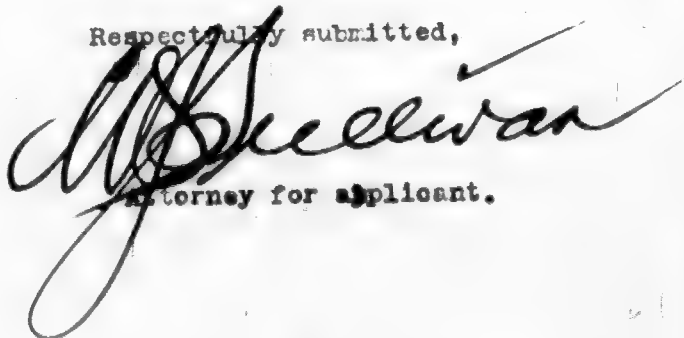
2100 P.O.
McClelland as A Citizen of the Choctaw Nation, by -----

Memo.1.

+++++

Before The Honorable, Commissioner to the Five Civilized Tribes:
Comes now the applicant, Belle McClelland, through her Attorney, W.J. Sullivan
and asks that the time heretofore set for a hearing in her said case, to wit;
October 16th, 1906, be extended and that said hearing be had on the 20th.
day of October, ¹⁹⁰⁶ at the hour of two O'Clock in the afternoon, she assigns
as her reason for non-compliance with the date heretofore set, that on
said date she was unrepresented by counsel, and ignorant of the rules and
regulations of the Honorable Commissioner assumed that an extension of
time would be given, irrespective of notice to the Attorneys for the Choctaw
Nation, she lives more than 20 miles from a Railway Station, and the hardship
of again coming to Muskogee is such that this request is made, she further
asks this hearing be had on the date and time asked for the reason that
she is here under expense, and to return home and again appear would cause
needless expense and an oyanee and time, she agrees that if this motion
is granted, all rights of the Nation insofar as her said case is involved
will be readily agreed to, and now and here commits herself to any extension
of time deemed proper by the Honorable Commissioner, to the end that the
Choctaw Nation may introduce evidence in controvention of her allegations
and proof herein.

Respectfully submitted,


Attorney for applicant.

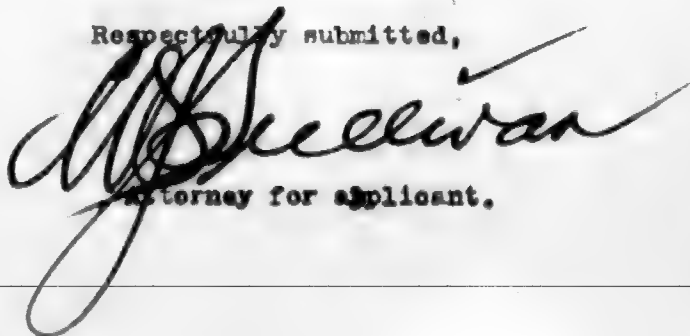
In the matter of the application, for the enrollment of Belle
McClelland as A Citizen of the Choctaw Nation, by intermarriage.

Memo. 1.

+++++

Before The Honorable, Commissioner to the Five Civilized Tribes:
.....
Comes now the applicant, Belle McClelland, through her Attorney, W.J. Sullivan
and asks that the time heretofore set for a hearing in her said case, to wit;
October 16th. 1906, be extended and that said hearing be had on the 20th.
1906
day of October, at the hour of two O'Clock in the afternoon, she assigns
as her reason for non-compliance with the date heretofore set, that on
said date she was unrepresented by counsel, and ignorant of the rules and
regulations of the Honorable Commissioner assumed that an extension of
time would be given, irrespective of notice to the Attorneys for the Choctaw
Nation, she lives more than 20 miles from a Railway Station, and the hardship
of again coming to Muskogee is such that this request is made, she further
asks this hearing be had on the date and time asked for the reason that
she is here under expense, and to return home and again appear would cause
needless expense and annoyance and time, she agrees that if this motion
is granted, all rights of the Nation insofar as her said case is involved
will be readily agreed to, and now and here commits herself to any extension
of time deemed proper by the Honorable Commissioner, to the end that the
Choctaw Nation may introduce evidence in controvention of her allegations
and proof herein.

Respectfully submitted,


Attorney for applicant.

Muskogee, Indian Territory.

October 18th. 1906.

Mansfield McMurray and Cornish.

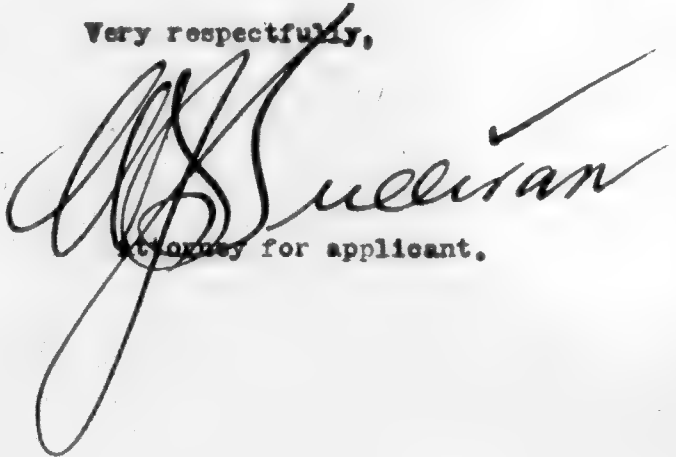
Attorneys Choctaw and Chickasaw Nation.

South McAlester, Indian Territory.

Gentlemen:-

Enclosed please find motion to extend time and rehear the application of Belle McClelland for enrollment as an intermarried citizen of the Choctaw Nation, (Dawes Commission, No. Memo. 1) said motion and letter of transmittal, copies of which are herein enclosed. The reasons are set forth and your courtesy is desired.

Very respectfully,

A large, stylized handwritten signature in dark ink, appearing to read 'J. Sullivan'. The signature is written over the typed name and title.

Attorney for applicant.

W.J.Sullivan, to me personally known, upon his oath doth say, he is the Attorney for one Belle McClelland whose rights as an intermarried citizen of the Choctaw Nation, he represents, that as such attorney he has mailed by registered letter and also special delivery stamp, the following named or described documents or letters, to wit; Motion addressed to the Honorable Commissioner to the Five Civilized Tribes, and marked in red ink No.1, a letter to Mansfield McMurray and Cornish and marked in red ink No.2, a letter to The Honorable Commissioner to the Five Civilized Tribes, and marked in red ink No.3. All of which he has this day mailed to the said Attorneys.

W.J. Sullivan

United States Court
Western District. SS.
Indian Territory.

Subscribed and sworn to before me this 18th. day of
October ~~1906~~ 1906.

T.B. Stewart

Notary Public.

My Commission expires *May 23^d 1909.*

Choctaw-D-291
Choctaw-5344
Choctaw-3919

Muskogee, Indian Territory, June 13, 1904.

T. W. Foster,
Attorney at Law,
South McAlester, Indian Territory.

Dear Sir:

Receipt is hereby acknowledged of your letter of May 26th stating that you have heard nothing from the Choctaw intermarried case of Mary Hale, Ruby Flinchum and Belle McLellan, wife of Edman McLellan.

In reply to your letter you are informed that on June 10, 1904 the Commission rendered its decision granting the application of Ruby Flinchum for enrollment as an intermarried citizen of the Choctaw Nation. The Commission has not yet passed upon the application of Mary Hale for enrollment as an intermarried citizen of the Choctaw Nation; and you are advised that no information can be given you relative to the claim of Belle McLellan to enrollment as an intermarried citizen of the Choctaw Nation, than that contained in our letter of May 24, 1904.

Respectfully,

Chairman.

DC-22542-1904.

(COPY).

J.W.H.

THE

Y.P.

ITD.4993-1904.

DEPARTMENT OF THE INTERIOR,

WASHINGTON, June 30, 1904.

Commission to the Five Civilized Tribes,

Muskogee, Indian Territory,

Gentlemen:

The Department is in receipt of a letter dated June 16, 1904, from Townsend N. Foster, Attorney at Law, South McAlester, Indian Territory, relative to the right of Belle McLellan, wife of Edmund McLellan, of Caddo, I.T., to enrollment as a citizen by intermarriage of the Choctaw Nation.

It appears that the said Edmund McLellan was one of the parties applicant in the Choctaw enrollment case of James A. McLellan, et al., No. 10, before the Choctaw and Chickasaw Citizenship Court. A decision favorable to the applicants was rendered by said Court on March 21, 1904.

Inclosed with Mr. Foster's letter was a letter from your Commission dated May 24, 1904, addressed to him; the petitions of J.L. Rappolee, Edmund McLellan and Belle McLellan, and a marriage certificate showing that Mr. E. B. McLellan and Miss Belle Browder were married August 6, 1902.

From the papers submitted it appears that an application was mailed to your Commission by Mr. McLellan in the latter part of October or early in November, 1902, requesting her enrollment as a citizen by intermarriage of the Choctaw Nation. From your letter,

referred to above, it appears, however, that no such application was received by your Commission, nor was there received, as alleged, a certificate showing the marriage of these parties.

The records of your office, where an affirmative showing is made, are entitled to great credit. Said records are not, however, conclusive evidence that an application was not mailed to you in due time. The Department considers that secondary evidence of the sending of such application may be properly received by your Commission. You are accordingly directed to allow Mrs. McLellan thirty days within which to submit such testimony as she may deem fit, showing the time when her application was made and the manner of making the same. You will advise Mrs. McLellan and her attorney, Mr. Foster, in accordance herewith.

The papers transmitted by Mr. Foster and referred to above, are inclosed herewith.

Respectfully,

E. A. Hitchcock,

Secretary.

4 inclosures.

Mem 1

Muskogee, Indian Territory, June 25, 1906.

Guy P. Cobb,
Attorney at Law,
Ardmore, Indian Territory.

Dear Sir:

Receipt is hereby acknowledged of your letter of June 13, 1906, transmitting motion for reconsideration of the application of Belle McLelland for enrollment as an intermarried citizen of the Choctaw Nation and the same has this day been transmitted to the Secretary of the Interior for consideration.

Respectfully,

Commissioner.

COPY

uskogee, Indian Territory, June 25, 1906.

The Honorable,

The Secretary of the Interior.

Sir:

July 18, 1904, the Commission to the Five Civilized Tribes reported to the Department in the matter of the application for the enrollment of Belle McLellan as an intermarried citizen of the Choctaw Nation recommending that Belle McLellan be advised that said Commission was without authority to receive, consider or make any record of her application for enrollment as such citizen. December 30, 1904, (I.T.D. 6728, 9955-1904) the Department directed that Belle McLellan be advised that the Commission to the Five Civilized Tribes was without authority to further consider her application for enrollment.

I now have the honor to transmit herewith for the consideration of the Department motion of Guy P. Cobb, Attorney at Law, of Ardmore, Indian Territory, for reopening and reconsideration of this case.

Respectfully,

SIGNED *James H. Hays*

Through the Commissioner
of Indian Affairs.
Mem 1

Commissioner.

Memo. 1.

Muskogee, Indian Territory, August 14, 1906.

Edmund McLellan,

Alma, Indian Territory.

Dear Sir:-

Receipt is hereby acknowledged of your letter of July 28, 1906, asking the status of the case of your wife, Belle McLellan, as an intermarried citizen of the Choctaw Nation. You also ask that certain deeds be forwarded to you.

In reply you are advised that on June 26, 1906, motion for rehearing in said case was forwarded the Department and this office has not yet been advised of any action thereon by the Secretary of the Interior.

The matter of the deeds referred to in your letter will be made the subject of a separate communication.

Respectfully,

Commissioner.

REFER IN REPLY TO THE FOLLOWING

Memo. 1.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, October 1, 1906.

Belle McClellan,

Caddo, Indian Territory.

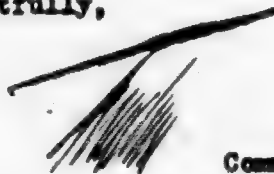
Dear Madam:

September 18, 1906, the Department granted a motion for rehearing filed in the matter of your application for enrollment as a citizen by intermarriage of the Choctaw Nation, and in view of the provisions of the Act of Congress approved April 26, 1906 (34 Stats., 137), remanded said case for rehearing and readjudication.

In accordance therewith you are advised that the Commissioner to the Five Civilized Tribes will, at his office at Muskogee, Indian Territory, on Tuesday, October 16, 1906, at nine o'clock A. M., hear such testimony and receive such other evidence as may be submitted in support of said application.

Your attorney, Guy P. Cobb, of Ardmore, Indian Territory, has been forwarded similar notice.

Respectfully,



Commissioner.

Memo. 1

Muskogee, Indian Territory, October 23, 1906.

N. J. Sullivan,

Muskogee, Indian Territory.

Dear Sir:

Receipt is hereby acknowledged of your letter of October 18, 1906, transmitting motion to reopen the application of Belle McLellan for enrollment as an intermarried citizen of the Choctaw Nation.

Respectfully,

Commissioner.

7-6048

Muskogee, Indian Territory, November 14, 1906.

Chief Clerk,

Choctaw Land Office,

Atoka, Indian Territory.

Dear Sir:

For your information there is inclosed herewith copy of Choctaw roll card No. 6048, Belle McLellan, and you are directed to make duplicate card of this number in your possession conform to the information thereon, and add the name of this person to your list of undetermined applicants for enrollment in the Choctaw Nation.

Respectfully,

ED 3-14

Commissioner.

7-6048

Muskogee, Indian Territory, November 14, 1906.

Chief Clerk,

Chickasaw Land Office,

Ardmore, Indian Territory.

Dear Sir:

For your information there is inclosed herewith copy of Choctaw roll card No. 6048, Belle McLellan, and you are directed to make duplicate card of this number in your possession conform to the information thereon, and add the name of this person to your list of undetermined applicants for enrollment in the Choctaw Nation.

Respectfully,

WB 4-14

Commissioner.

Muskogee, Indian Territory, January 3, 1907.

The Honorable,

The Secretary of the Interior.

Sir:

Receipt is hereby acknowledged of Departmental letter of December 20, 1906, (I.T.D. 24794-1906), requesting that the Department be furnished with an immediate report showing whether a protest has been filed by the attorneys for the Choctaw and Chickasaw Nations in the matter of the application for the enrollment of Belle McLellan as a citizen by intermarriage of the Choctaw Nation.

Reporting I have to advise that no protest has been filed by said attorneys to the decision of the Commissioner to the Five Civilized Tribes of November 6, 1906, granting the application for her enrollment.

Respectfully,

Sam. Doby

Through the
Commissioner of Indian Affairs.

Commissioner.

G. R.

DEPARTMENT OF THE INTERIOR, LIE

D. C. 6301-1907.

WASHINGTON.

I. T. D. 24794-1906.

1462-1907.

January 29, 1907.

L. R. S.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

November 6, 1906, you^{re} submitted the record in the matter of the application of Belle McLellan for her enrollment as an intermarried citizen of the Choctaw Nation, remanded for rejudication under the act of Congress of April 26, 1906 (34 stats., 137).

You held November 6, 1906, that Belle McLellan is now entitled to enrollment as an intermarried citizen of the Choctaw Nation, having been lawfully married in Fannin County, Texas, on August 6, 1902, to Edmund McLellan, a recognized and enrolled citizen by blood of the Choctaw Nation, whose name appears opposite No. 15312 upon the approved final rolls of citizens by blood of the Choctaw Nation.

January 3, 1907, you reported that no protest had been filed by the Choctaw Nation against your decision of November 6, 1906, enrolling Belle McLellan as an intermarried citizen of the Choctaw Nation.

In accordance with the recommendation of the Commissioner of Indian Affairs of December 7, 1906 (Land 99861), copy whereof is inclosed, your decision of November 6, 1906, admitting to enrollment Belle McLellan as an intermarried citizen of the Choctaw Nation, is hereby affirmed.

-2-

You will advise applicant and her attorney of this action.

The papers in the case have been sent to the Indian Office for its files.

Respectfully,

Thos. Ryan,

First Assistant secretary.

Through the Commissioner
of Indian Affairs.

1 inc. and 4 to Ind. Of.

--Copy--

LAND:
1315-1907.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

January 21, 1907.

The Honorable,

The Secretary of the Interior.

Sir:

There is forwarded herewith report of Commissioner Bixby, dated January 3, 1907, made in response to departmental letter of December 20, 1906 (I. T. D. 24794-1906), requesting information as to whether a protest has been filed by the attorneys for the Choctaw and Chickasaw Nations in the matter of the application for the enrollment of Belle McLellan as a citizen by intermarriage of the Choctaw Nation.

The Commissioner reports that no protest has been filed by the attorneys to the decision of the Commissioner to the Five Civilized Tribes dated November 6, 1906, granting the application for her enrollment.

Very respectfully,

C. F. Larrabee,

Acting Commissioner.

AJV-EH.

--Copy--

LAND:
99861-1906.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

December 7, 1906.

The Honorable,

The Secretary of the Interior.

Sir:

Referring to Departmental letter of June 30, 1904, (I. T. D. 4993-1904), directing the Commission to the five civilized Tribes to allow Belle McLellan to submit evidence tending to show that application had been made for her enrollment as a citizen by intermarriage of the Choctaw Nation, within the time provided by the Act of Congress approved July 1, 1902, I have the honor to transmit herewith a communication from the Commissioner to the five Civilized Tribes, dated November 6, 1906, enclosing the record in this case showing the proceedings subsequent to June 30, 1904, the last action of the Commissioner having been taken under a motion for reopening and reconsideration of the case, filed under Act of Congress approved April 26, 1906, together with an order made by the Commissioner November 6, 1906, enrolling Belle McLellan as a citizen by intermarriage of the Choctaw Nation.

The Commissioner says that the attorneys for the Chickasaw and Choctaw Nation have been notified of his action and that they have been allowed fifteen days from the date of notice within which to file a protest against her enrollment, and that if, at

-2-

the expiration of that time no protest has been filed, her name will be placed upon a schedule of citizens by intermarriage of the Choctaw Nation, and forwarded to the Department for approval.

Very respectfully,

C. F. Larrabee,

Acting Commissioner.

KWE-EH

7-6048

Muskogee, Indian Territory, February 26, 1907.

W. J. Sullivan,

Attorney at Law,

Muskogee, Indian Territory.

Dear Sir:

You are hereby notified that on January 29, 1907, the Secretary of the Interior affirmed the decision of the Commissioner to the Five Civilized Tribes granting the application for the enrollment of Belle McLellan as a citizen by intermarriage of the Choctaw Nation.

You are further advised that the name of Belle McLellan has been placed upon a schedule of citizens by intermarriage of the Choctaw Nation which has been submitted to the Secretary of the Interior for his consideration and you will be notified of Departmental action thereon.

Respectfully,

Commissioner.

7-6048

Muskogee, Indian Territory, February 26, 1907.

Belle McLellan,

Alma, Indian Territory.

Dear Madam:

You are hereby notified that on January 29, 1907, the Secretary of the Interior affirmed the decision of the Commissioner to the Five Civilized Tribes granting the application for your enrollment as a citizen by intermarriage of the Choctaw Nation.

You are further advised that your name has been placed upon a schedule of citizens by intermarriage of the Choctaw Nation which has been submitted to the Secretary of the Interior for his consideration and you will be notified of Departmental action thereon.

Respectfully,

Commissioner.

7-6048

Muskogee, Indian Territory, February 26, 1907.

Guy P. Cobb,

Attorney at Law,

Ardmore, Indian Territory.

Dear Sir:

You are hereby notified that on January 29, 1907, the Secretary of the Interior affirmed the decision of the Commissioner to the Five Civilized Tribes granting the application for the enrollment of Belle McLellan as a citizen by intermarriage of the Choctaw Nation.

You are further advised that the name of Belle McLellan has been placed upon a schedule of citizens by intermarriage of the Choctaw Nation which has been submitted to the Secretary of the Interior for his consideration and you will be notified of Departmental action thereon.

Respectfully,

Commissioner.

Choctaw 6049

Lee Folsom

Nov .16, 1906 Trans from Memo #15

6049

Memorandum

Department of the Interior.
Commission to the Five Civilized Tribes.
South McAlester, I. T., December 23rd, 1902.

Choctaw
Intermarried

-----oOo-----

In the matter of the application of Lee Folsom for enrollment as an intermarried citizen of the Choctaw Nation.

Lee Folsom being first duly sworn testified as follows:

Examination by the Commission.

- Q What is your name? A Lee Folsom.
Q How old are you? A Twenty.
Q What is your post office address? A Savanna.
Q In the Choctaw Nation? A Yes sir.
Q Are you a white woman? A Yes sir.
Q An applicant for enrollment as an intermarried citizen of the Choctaw Nation? A Yes sir.
Q What is the name of your Choctaw husband? A William Folsom.
Q When did you marry him? A 21st day of August, 1902.
Q Have you prior to this time made application to this Commission to be enrolled as a citizen by intermarriage of the Choctaw Nation? A No sir.
Q Was you ever married to him prior to August 27, 1902? A No sir.

Under the provisions of the act of Congress approved July 1, 1902, and ratified by the citizens of the Choctaw and Chickasaw Nations September 25, 1902, this Commission is only authorized to receive the applications of such intermarried white persons as may have married recognized citizens of the Choctaw and Chickasaw Nations in accordance with the tribal laws, customs and usages, on or before the date of the passage of this act of Congress. Under this provision of law this Commission is without jurisdiction to receive, consider or make any record of your application for enrollment as a citizen by intermarriage of the Choctaw Nation.

Albert G. McMillan being first duly sworn states that as stenographer to the Commission to the Five Civilized Tribes he reported the proceedings had in the above entitled cause on the 23rd day of December, 1902, and that the above and foregoing is a full, true and correct transcript of his stenographic notes taken in said cause on said date.

Albert G. McMillan

Subscribed and sworn to before me this 10 day of February, 1903.

Charles H. Sawyer

Notary Public.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

.....
In the matter of the application of Lee Folsom for enrollment as a citizen by intermarriage of the Choctaw Nation.
.....

From the record in this matter it appears that Lee Folsom appeared in person before the Commission at South McAlester, Indian Territory, on December 23, 1902, and made application for enrollment as a citizen by intermarriage of the Choctaw Nation.

From her testimony given at that time it appears that she is 20 years of age, and resides at Savanna, in the Choctaw Nation; that she is a white woman, having no Indian blood; that she claims the right to enrollment as a citizen by intermarriage of the Choctaw Nation by reason of her marriage, August 21, 1902, to William Folsom, a Choctaw Indian; that she never made application for enrollment as a citizen by intermarriage of the Choctaw Nation prior to December 23, 1902; and that she was never married to her Indian husband prior to August 21, 1902.

By Section 34 of the Act of Congress approved July 1, 1902, (32 Stats. 641), it is provided that -

"During the ninety days first following the date of the final ratification of this agreement, the Commission to the Five Civilized Tribes may receive applications for the enrollment only of persons whose names are on the tribal rolls, but who have not heretofore been enrolled by said Commission, commonly known as 'delinquents', and such intermarried white persons as may have married recognized citizens of the Choctaw and Chickasaw Nations in accordance with the tribal laws, customs and usages, on or before the date of the passage of this Act by Congress" - &c.

It clearly appearing from the applicant's own testimony that said Lee Folsom was not married to her Choctaw husband "on or before the date of the passage of this Act by Congress", it is the opinion of this Commission that it has no power or authority to receive or consider her said application, and that it should, therefore, decline to receive the same, and

IT IS SO ORDERED.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Chairman.

Commissioner.

C. R. Buckinridge
Commissioner

Mankegee, Indian Territory,

OCT 11 1904

, 1904.

COPY:

Choctaw M 15

Muskogee, Indian Territory, October 14, 1904.

Lee Folsom,

Chambert, Indian Territory,

Dear Madam:

There is inclosed you herewith copy of the order of the Commission of October 11, 1904, refusing to receive or consider your application of December 23, 1902, for enrollment as an intermarried citizen of the Choctaw Nation.

You are further advised that the memorandum of proceedings had in this matter, together with the order of the Commission, has this day been transmitted to the Secretary of the Interior.

Respectfully,

SIGNED: *Arno Bixby*

Incl. 7-M-16.

Chairman.

Choctaw M 15

COPY.

Muskogee, Indian Territory, October 14, 1904.

Wansfield, McMurray & Cornish,

Attorneys for Choctaw and Chickasaw Nations,
South McAlester, Indian Territory,

Gentlemen:

There is transmitted herewith copy of the order of the Commission of October 11, 1904, refusing to receive or consider the application of Lee Folsom for enrollment as an intermarried citizen of the Choctaw Nation.

Respectfully,

SIGNED) James Bixby

Incl. 7-M-15.

Chairman.

COPY.

Muskogee, Indian Territory, October 14, 1904.

The Honorable,

The Secretary of the Interior,

Sir:

I have the honor to transmit herewith memorandum in the matter of the application of Lee Folsom for enrollment as an intermarried citizen of the Choctaw Nation, together with the order of the Commission, of October 11, 1904, refusing to receive or consider said application.

Respectfully,

(SIGNED) *Tamc Bixby*

Chairman.

Through the
Commissioner of Indian Affairs.

2 Incl. 7-M-15.

DEPARTMENT OF THE INTERIOR

Y.P.

D.C. 45429-1904.
I.T.D. 11844-1904.

WASHINGTON

FHE
November 22, 1904.

LRS.

Commission to the Five Civilized Tribes,
Muskogee, Indian Territory,

Gentlemen:

November 18, 1904, the Commissioner of Indian Affairs submitted the papers in the matter of the application of Lee Folsom for enrollment as an intermarried citizen of the Choctaw Nation, and recommended that your decision adverse to the applicant be concurred in.

It appears that the applicant is a white woman, and was married to a Choctaw citizen August 21, 1902; that she made application for enrollment December 23, 1902.

The Department has considered, in connection with this matter, a communication of October 28, 1904, from Messrs. McCurtain & Hill, of South McAlester, Indian Territory, in which they contend that there is a conflict between sections 27 and 34 of the agreement with the Choctaw and Chickasaw Nations, act of July 1, 1902 (32 Stat., 641).

Finding no reason to disturb your decision, it is hereby affirmed. So advise said attorneys, and return to them the papers inclosed, stamped No. 11844, inclosures 6 and 7.

2---

A copy of the Commissioner's letter is inclosed.

Respectfully,

3 inclosures.

Thos. Ryan,
Acting Secretary.

DEPARTMENT OF THE INTERIOR
OFFICE OF INDIAN AFFAIRS
WASHINGTON

November 18, 1904.

Land.
78141-1904.

The Honorable,
The Secretary of the Interior.

Sir:

I enclose herewith a report from the Commission to the Five Civilized Tribes, dated November 5, 1904, transmitting the record of the application for enrollment as a citizen by intermarriage of the Choctaw Nation by Lee Folsom.

October 11, 1904, the Commission decided adversely to the applicant.

The record shows that the applicant is a white woman having no Indian blood; that she was married August 21, 1902, to William Folsom a Choctaw Indian, and that she never made application for enrollment prior to December 23, 1902.

In view of the record and of the Act of Congress approved July 1, 1902 (32 Stats 641), the approval of the Commission's decision adverse to the applicant is recommended.

Very Respectfully,

W. A. Jones
Commissioner.

M.V.M.
W.

D.C. McCurtain. E.P. Hill.

McCurtain & Hill,
Lawyers,
South McAlester, I.T.

Oct. 28, 1904.

The Secretary of the Interior,
Washington, D.C.

Sir:

In the matter of the action of the Commission to the Five Civilized Tribes in declining to receive or consider the application of Lee Folsom for enrollment as a citizen by intermarriage of the Choctaw Nation, we desire to submit a few statements in behalf of the applicant for your consideration.

The record in this case shows that Lee Folsom, a white woman, was married to William W. Folsom, a Choctaw Indian, on August 21, 1902; that on December 23rd, 1902, she made application to the Commission to the Five Civilized Tribes for enrollment as a citizen by intermarriage of the Choctaw Nation. October 11, 1904, the Commission decided that it had no power or authority to receive or consider the application of Lee Folsom, and that it should, therefore, decline to receive the same, and it was on said date accordingly so ordered. A copy of said decision was furnished the applicant, Lee Folsom, and the same is herewith enclosed for your information.

The facts are conceded to be as stated in the record; the only question in this case is one of law. And that question is: Whether the time in which intermarriage between white persons and members

-2- The Secretary of the Interior.

of the Choctaw or Chickasaw tribes will confer upon such white persons the right to enrollment is limited by the passage of the act by Congress ratifying the agreement, or by the final ratification of the agreement by the vote of the Choctaw and Chickasaw people. The decision of the Commission is based upon the theory that the time in which such intermarriage could confer right to enrollment was limited by the passage of the act by Congress, July 1, 1902. And in support of this view the Commission calls attention to section 34 of said act of Congress, as follows:

"During the ninety days first following the ratification of this agreement, the Commission to the Five Civilized Tribes may receive applications for the enrollment only of persons whose names are on tribal rolls, but who have not heretofore been enrolled by said Commission, commonly known as 'delinquents', and such intermarried white persons as may have married recognized citizens of the Choctaw and Chickasaw nations in accordance with the tribal laws, customs and usages, on or before the date of the passage of this act by Congress-~~ac~~"

The language of this provision is plain, and there could be no question about the correctness of the Commission's decision were it not for other and conflicting provisions of the same statute disclosing a contrary intention. Section 27 of the same act provides:

"The rolls of the Choctaw and Chickasaw citizens and Choctaw and Chickasaw freedmen shall be made by the Commission to the Five Civilized Tribes, in strict compliance with the act of Congress approved June 28, 1898, (30 stats., 495), -----"

This section requires a strict compliance with the act of June 28, 1898,, which evidently means the following provision of said act as it is the only portion of said act referred to that relates to enrollment:

"Said commission is authorized and directed to make correct rolls of the citizens by blood of all the other tribes-----,

-3- The Secretary of the Interior.

with such intermarried white persons as may be entitled to Choctaw and Chickasaw citizenship under the treaties and laws of said tribes."

Section 26 of the Act of July 1, 1902, provides:

"The names of all persons living on the date of the final ratification of this agreement entitled to be enrolled as provided in section 27 hereof shall be placed upon the rolls made by said Commission; and no child born thereafter to a citizen or freedman and no person intermarried thereafter to a citizen shall be entitled to enrollment or to participate in the distribution of the tribal property of the Choctaws and Chickasaws."

It is no strange construction to say that the foregoing provision means that a white person who intermarries with a member of the Choctaw or Chickasaw tribes is entitled to enrollment and a distribution of the property of the Choctaws and Chickasaws. And it is this provision that presents a direct conflict with the provision upon which the Commission declined to receive the application of Lee Folsom. To harmonize these two provisions of the act would require a strained and, in fact, an unreasonable construction. In dealing with these different provisions, so conflicting in their nature, it is necessary to reject one or the other, and in reaching a correct conclusion as to which provision should prevail we must rely upon the manifest intention of the whole statute. This is an act of Congress confirmatory of an agreement between the Choctaws and Chickasaws and the United States Government for the purpose of dividing the common property of the tribes among their lawful members. No where in any of the treaties or agreements for this purpose does it appear to be the intention of either party or of Congress to discriminate against any of the members or classes of members, except perhaps, as appears to be the effect of section 34 of this act, which is shown to be in direct conflict with other preceding sections

-4- The Secretary of the Interior.

of the same act. If the Commission's construction of the law in this case is correct, there is extended a right to one class, members by blood, to become citizens entitled to enrollment, which is denied to another, intermarried white persons, who intermarry within the same time. This is a discrimination which we do not think it was the intention of either the tribes or the law to make; and we think this view is fully sustained by the preceding sections of the same act as well as all previous treaties, agreements and legislation upon this subject.

Article 38 of the treaty of 1866, as follows:

"Every white person who, having married a Choctaw or Chickasaw, resides in the said Choctaw or Chickasaw Nations, -----, is to be deemed a member of said nation, and shall be subject to the laws of the Choctaw or Chickasaw nation according to his domicile ----- in all respects as though he was a native Choctaw or Chickasaw"

has been by the courts construed to mean that a white person intermarried with a Choctaw or Chickasaw under the laws of the tribe is a member of the tribe to all intents and purposes, enjoying all the rights, privileges and immunities of a citizen by blood. The tribes in making their subsequent agreements have always respected such rights of the intermarried citizens. It does not appear that there is now a reason for discriminating against the intermarried citizens and we do not believe that fair interpretation of the law upon its full context will admit of such construction.

Wherefore, we would respectfully request that the Commission be directed to receive and consider the application of Lee Folsom.

Respectfully,

McCurtain & Hill.

Muskogee, Indian Territory, November 30, 1904.

Lee Folsom,

Chamberi, Indian Territory,

Dear Friend:

You are hereby notified that on November 23, 1904, the Secretary of the Interior approved the order of the Commission of October 14, 1904, refusing to receive or consider your application for enrollment as an intermarried citizen of the Choctaw Nation.

Respectfully,

Commissioner in Charge.

Muskogee, Indian Territory, November 20, 1904.

McGurtain & Hill,

Attorneys at Law,

South McAlester, Indian Territory,

Gentlemen:

There is inclosed herewith, for your information, copy of Departmental letter of November 22, 1904, (I. T. D. 11844-1904) approving the order of the Commission of October 14, 1904, refusing to receive or consider the application made by Lee Polson for enrollment as an intermarried citizen of the Choctaw nation.

In accordance with Departmental instructions contained in this letter, there are returned herewith your letter of October 28, 1904, and copy of order of Commission refusing said application, of October 14, 1904.

Respectfully,

Commissioner in Charge.

Waskom, Indian Territory, November 20, 1904.

Mansfield, McMurray & Carnish,
Attorneys for the Choctaw and Chickasaw Nations,
South McAlester, Indian Territory.

Gentlemen:

There is inclosed herewith, for your information, copy of
Departmental letter of November 22, 1904, (I. T. D. 11644-1904)
approving the order of the Commission of October 14, 1904, refusing
to receive or consider the application made by Lee Nelson for en-
rollment as an intermarried citizen of the Choctaw Nation.

Respectfully,

Commissioner in Charge.

AS 4-20

COPY

Muskogee, Indian Territory, June 25, 1906.

The Honorable,

The Secretary of the Interior.

Sir:

October 14, 1904, the Commission to the Five Civilized Tribes rendered its decision declining to receive the application of Lee Polson for enrollment as an intermarried citizen of the Choctaw Nation and on the same day the record in the case was transmitted to the Secretary of the Interior. November 24 (I.T.D. 11844-1904) this action was approved by the Department.

I now have the honor to transmit herewith motion submitted by Guy P. Cobb, Attorney at Law, Ardmore, Indian Territory for reconsideration of this case.

Respectfully,

SIGNED *Samuel D. Smith*

Commissioner.

Through the Commissioner
of Indian Affairs.

Mem 15.

**MOTION TO RE-OPEN
AND
RE-CONSIDER**

In the matter of the ap-
plication for the enroll-
ment of Les Folsom as a
citizen by intermarriage
of the Choctaw Nation.

DEPARTMENT OF THE INTERIOR.
Commissioner of the Five Civilized Tribes.

FILED

JUN 22 1906


Commissioner

GUY P. COBB

ATTORNEY AT LAW

ANDOVER, IND. TER

DEPARTMENT OF THE INTERIOR.
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application
for the enrollment of Lee Nelson
as a citizen by intermarriage of the
Choctaw Nation.

ACTION TO RE-OPEN
AND
RE-CONSIDER.

Comes now Lee Nelson by her attorney Guy P. Cobb, and
moves that the above entitled case be re-opened and the decision of
the Commissioner be re-considered, and that she be enrolled as an
intermarried citizen of the Choctaw Nation, under the provisions
of Section one, of the act of Congress approved April 26th. 1906,
upon the following grounds.

First. The record in this case shows that on or about the
1st. day of August 1902 Lee Nelson a white woman married W. W. Nelson
a regularly enrolled and recognized citizen of the Choctaw
Nation and that on December 23rd. 1902 she presented herself in
person and made application for enrollment as an intermarried citizen,
such application was refused. Application for enrollment
in this case was made prior to December 1st. 1905 and the records in
charge of the Commissioner to the Five Civilized Tribes show application
to have been so made, and the case under consideration
is clearly within the general provisions of the Section above referred to.

Second, that the applicant was married in accordance with the
laws and customs of the Choctaw Nation to a recognized Indian citizen
of said nation, and that such marriage was equivalent to her name
in
appearing upon the Tribal Rolls, that the application in this case
was made prior to December 1st. 1906, and was not allowed solely because
not made within the time prescribed by law, and that the case
now under consideration comes within the final proviso of the section
above referred to.

Guy P. Cobb
Attorney for applicant.

Mem. 15

Muskogee, Indian Territory, August 30, 1905.

The Honorable,

The Secretary of the Interior.

Sir:

Under date of November 22, 1904 (I. T. D. 11844-1904) the Acting Secretary of the Interior affirmed the decision of the Commission to the Five Civilized Tribes of October 14, 1904, declining to receive or consider the application of Lee Pelsen for enrollment as a citizen by intermarriage of the Choctaw Nation.

I am now in receipt of a letter from Guy P. Cobb, Attorney at Law at Ardmore, Indian Territory, under date of August 25th, transmitting in duplicate an application for appeal, directed to the Commissioner of Indian Affairs, in this case, one copy of which he requests be forwarded to the Secretary of the Interior.

I transmit herewith for departmental consideration, the so-called application for appeal, which bears no proof of service of a copy thereof on Mansfield, McMurray & Cornish, attorneys for the Choctaw and Chickasaw Nations.

Respectfully,

Through the Commissioner
of Indian Affairs.
CP 30-5

Commissioner.

Mem -15

Muskogee, Indian Territory, August 30, 1905.

Guy P. Cobb,

Attorney at Law,

Ardmore, Indian Territory.

Dear Sir:

I am in receipt of your letter of the 25th instant, enclosing in duplicate an appeal to the Commissioner of Indian Affairs from the decision of the Commission to the Five Civilized Tribes refusing the application for the enrollment of Lee Folsom as a citizen by intermarriage of the Choctaw Nation and requesting that a copy thereof be transmitted to the Department.

In reply to your letter you are advised that on November 22, 1904, the Acting Secretary of the Interior affirmed the decision of the Commission to the Five Civilized Tribes of October 14, 1904, refusing to receive or consider the application of Lee Folsom for enrollment as a citizen by intermarriage of the Choctaw Nation.

I have, however, in conformity with your request, transmitted the original of the application for appeal to the Secretary of the Interior.

Respectfully,

Commissioner.

Copy.

In The matter of the
enrollment of
Lee Folsom.
Appeal.

DEPARTMENT OF THE INTERIOR,
General Land Office, Washington, D.C.

FILED

AUG 29 1905

Commissioner

Guy P. Cobb,
Attorney.

DEPARTMENT OF THE INTERIOR,

COMMISSIONER OF INDIAN AFFAIRS,

WASHINGTON, D. C.

Copy

In the matter
of the
application for enrollment of
Lee Folsom

APPLICATION FOR APPEAL

Comes now Lee Folsom, by her counsel, Guy P. Cobb, and petitions that she be granted an appeal from the decision of the Commission to the Five Civilized Tribes in the matter of the application of Lee Folsom for enrollment, for the reason that the said Commission erred in refusing to receive the application of Lee Folsom for enrollment as an intermarried citizen of the Choctaw Nation.

The records of the Commission to the Five Civilized Tribes show that on or about the 21st day of August 1902, Lee Folsom - a white woman married W.W. Folsom a regularly enrolled and recognized citizen of the Choctaw Nation according to the Choctaw laws and customs, that on or about the 23rd day of December 1902, Lee Folsom presented herself in person to make application for enrollment as an intermarried citizen of the Choctaw Nation, that on the 14th day of October 1904, the said Commission issued its order refusing to receive the application for enrollment of Lee Folsom as an intermarried citizen of the Choctaw Nation and that on the 22nd day of November 1904 the Secretary of the Interior approved such order of the Commission.

Said order being based upon the clause of the supplemental agreement which provides as follows:-

"During the ninety days first following the date of the final ratification of this agreement, the Commission to the Five Civilized Tribes may receive applications for enrollment only of persons whose names are on the Tribal rolls, but who have not heretofore been enrolled by said Commission, commonly known as 'delinquents', and such intermarried white persons as may have married recognized citizens of the Choctaw and Chickasaw Nations in accordance with the Tribal laws, customs and usages on or before the date of the passage of this act by Congress, and such infant children as may have been born to recognized and enrolled citizens on or before the date of the final ratification of this agreement; but the application of no person whomsoever for enrollment shall be received after the expiration of the said ninety days."

The Commission erred in issuing such order for the reason that their own record shows that on the 23rd day of September 1902, W.W. Folsom mailed to the said Commission a letter containing the following language:

"Savannah, I.T. Sept. 23rd, 1902. The Honorable Dawes Commission, I desire to enroll my wife, I was married August 21st, 1902, according to Choctaw laws, usages and custom, and I am a Choctaw, the son of W.S. and O.P. Folsom Choctaw 4555, please advise me in the matter the time I have to enroll in & C. Yours very respectfully, W.W. Folsom."

the said letter being received and filed by said Commission September 24th, 1902, and before the adoption of the supplemental treaty.

Said letter was in itself a complete application made by the husband of the applicant, who under the terms of Act of Congress of June 28, 1898 was duly authorized to make application for his wife, and being received by the said Commission prior to the ratification of the supplemental agreement, the Commission erred in disregarding such application.

Wherefore the applicant respectfully requests that the Commissioner to the Five Civilized Tribes be directed to receive and recognize the application of Lee Folsom for enrollment as a citizen of the Choctaw Nation and to enroll such applicant.

Guy P. Cobb
Attorney for Lee Folsom.

INDIAN TERRITORY,

6 District.

Comes now GUY P. COBB counsel for Lee Tolson
in the before going case, the makes oath and says that the contents
of the above and foregoing application for appeal is true as he
verily believes.

Guy P. Cobb

Subscribed and sworn before me on this 25th day August 1906.

(Sig.) *J. F. Gibson*
Notary Public.

Seal.

My commission expires

Oct. 3rd 1907

G.R.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

LIE

D.C. 89285-1906.
I.T.D. 11844-1904.
13598-1905.
15402-1906.

September 6, 1906.

L.R.S.

Commissioner to the Five Civilized Tribes,
Wuskegee, Indian Territory.

Sir:

June 26, 1906, you transmitted a motion for a reopening and a rehearing in the matter of the application of Lee Folsom for her enrollment as an intermarried citizen of the Choctaw Nation, wherein the Department on November 22, 1904 (I.T.D. 11844), affirmed the decision of the Commission to the Five Civilized Tribes of October 11, 1904, denying said application, on the ground that under section 34 of the act of Congress approved July 1, 1902 (32 Stat., 641), the then existing law, the Commission had no power or authority to receive or consider said application, for the reason that it appeared therefrom that applicant was married to her Indian spouse, William Folsom, on August 21, 1902, and not on or before July 1, 1902, the date of the passage of said act by Congress, as required by section 34 thereof, her application having been filed December 23, 1902.

In accordance with the approved opinions of the Assistant Attorney-General for this Department dated August 10, 1906, in the cases of Elsie J. Oakes (I.T.D. 14010-1906), and Birdie Rosenthal (I.T.D. 14012-1906), applicants for enrollment as intermarried citizens of the

Chectaw Nation, said motion for a rehearing is hereby granted, and the decision of the Department of November 22, 1904 (I.T.D. 11844), refusing to receive or consider said application is hereby set aside, and in view of the provisions of section 1 of the act of Congress approved April 26, 1906 (Public No. 129), the application of Lee Folsom for her enrollment as an intermarried citizen of the Chectaw Nation is reopened, and the record therein is remanded to your for a rehearing and readjudication under the act of April 26, 1906.

Respectfully,

Jesse E. Wilson,

Assistant Secretary.

3 inclosures.

Through the Commissioner
of Indian Affairs.

Memo--15.

DEPARTMENT OF THE INTERIOR.
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.
MUSKOGEE, INDIAN TERRITORY, OCTOBER 29, 1906.

In the matter of the application for the enrollment of
Lee Polson as a citizen by intermarriage of the Choctaw
Nation.

APPEARANCES:- (Guy P. Cobb, Attorney at Law, Ardmore, In-
(dian Territory, appears on behalf of the
(applicant.
(No appearance on behalf of the Choctaw and
(Chickasaw Nations.

On December 23, 1902, Lee Polson appeared before
the Commission to the Five Civilized Tribes at South
McAlester, Indian Territory, and made application for
enrollment as a citizen by intermarriage of the Choctaw
Nation.

On October 14, 1904, the Commission to the Five
Civilized Tribes refused to receive or consider the
application for the enrollment of said applicant as a
citizen by intermarriage of the Choctaw Nation, for
the reason that said applicant was not married to
her Choctaw husband on or before the date of passage
of the Act of Congress approved July 1, 1902, as
provided in Section 34 thereof.

On September 6, 1906 (I.T.D. 11844- 1904, 13592-
1905, 15402-1906), the Department rescinded its action
of November 22, 1904 (I.T.D. 11844-1904), affirming
the decision of the Commission, and remanded the record
in said case for rehearing and readjudication under
the Act of April 26, 1906.

LEE POLSON, being first duly sworn by W. W. Chappell, testi-
fied as follows:

(By the Commissioner)

- Q What is your name? A Rosa Lee Polson.
Q When you appeared before, before the Commission you
gave your name as Lee Polson, did you not? A Yes sir,
but Rosa Lee Polson is my full name.
Q How old are you? A 24.
Q What is your post office address? A Cornish.
Q Through whom do you claim your right to enrollment as a
citizen by intermarriage of the Choctaw Nation?
A William W. Polson.
Q Is he a recognized and enrolled citizen by blood of the
Choctaw Nation? A Yes sir.

- Q When were you married to him? A August 21, 1902.
 Q At what place were you married? A We were married at Hartshorne.
 Q Where were you living at that time? A I was living about two miles east of South McAlester.
 Q How long had you lived in the Choctaw Nation before you married Mr. Folsom? A About two years.
 Q Where was he living at that time? A There at old Perryville.
 Q In the Choctaw Nation? A Yes sir.
 Q Have you lived together continuously since your marriage? A Yes sir.
 Q In what nation? A Lived in the Choctaw Nation until in June we moved to the Chickasaw Nation.
 Q This last June? A Yes sir.
 Q Had you ever been married before you married Mr. Folsom? A No sir.
 Q Had Mr. Folsom ever been married before he married you? A No sir.
 Q Did you secure a license to marry? A Yes sir, we had a marriage certificate.
 Q Got it from where-- United States Court at South McAlester? A Got it from Frank Battles, County Clerk. The Clerk that married us, we got it from him.
 Q At what place? A At Hartshorne.
 Q Have you a certificate of marriage? A We had one, but we sent it to the Commission to have the children enrolled and they never returned it.
 Q What is the name of the child you filed it with? A Cletus A. Folsom and William W. Folsom, I think is the way they are enrolled.
 Q Who married you, did you say? A Frank Battles.
 Q Deputy Clerk of the Court? A Yes sir. Did you say Clerk of the Court?
 Q Yes. No, not a clerk.
 Q Choctaw official, or United States official? A He was a Choctaw, I believe. Yes, Choctaw.
 Q How old was William W. Folsom when you married him? A He was 20.
 Q What is the name of his father? A William S. Folsom.
 Q What is the name of his mother? A Ophelia P. Folsom.

William W. Folsom, through whom the applicant claims her right to enrollment as a citizen by inter-marriage of the Choctaw Nation, is identified upon Choctaw Field Card No. 4555, opposite No. 12619, approved by the Secretary of the Interior March 6, 1903.

- Q You are a white woman, ? A Yes sir.
 Q What is the name of your father? A John Thatcher.
 Q What is the name of your mother? A Martha Thatcher.
 Q Either of them living? A Father is living.
 Q Both citizens of the United States? A Yes sir.

Kate DeBord, stenographer to the Commissioner to the Five Civilized Tribes, being first duly affirmed, states,

Lee Wilson---3

that she correctly reported all proceedings had in the above entitled and numbered cause on the 29th day of October, 1906, and that the above and foregoing is a full, true and correct transcript of her stenographic notes taken therein on said date.

Walter L. Bond

Subscribed and affirmed to before me this 1st day of November, 1906.

Walter W. Chappell
Notary Public.

(COPY-DoB)

Certificate of Marriage.

This is to certify that on this 21st day of August 1902 at my office in Gaines County Choctaw Nation Indian Territory I H. P. Battle County Judge in and for said County Have this day duly united in the bonds of Matrimony Mr. William W. Folsom a citizen of the Choctaw Nation and Miss Rosa L. Thatcher a Citizen of the United States according to all the laws Customs and usages of the Choctaw Nation.

Given under my hand and seal as such County Judge the day and year before named.

Frank Battle

(SEAL)

County Judge Gaines County Choctaw Nation.

Filed in the Clerk office this the 25 day of August A. D. 1902.

Marous Battice.

Clerk of Gaines County C. N.

This is the certified Copy of William W. Folsom Rosa L. Thatcher Marriage Certificate has been Recorded in Gaines County Record Book Page 42

Given under my hand and seal this the 6th day of July A. D. 1905.

(SEAL)
H.W.N.

Eastman W. Nelson,
Clerk of Gaines County, C. N.

(Endorsed) Marriage Certificate
This is the certify copy of William W. Folsom, and Lee Thatcher.
DEPARTMENT OF THE INTERIOR
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.
Copy by Eastman W. Nelson
Clerk of Gaines County
Choctaw Nation.
F I L E D
Jul 18, 1905
Treas. Dept., Washington

Memo. 15.
O.L. J.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the alleged application for the enrollment of Lee Folsom as a citizen by intermarriage of the Choctaw Nation.

-----ooOoo-----

It appears from the record herein that on December 23, 1902, Lee Folsom appeared before the Commission to the Five Civilized Tribes at South McAlester, Indian Territory, and made application for enrollment as a citizen by intermarriage of the Choctaw Nation.

October 11, 1904, the Commission to the Five Civilized Tribes rendered its decision therein, refusing to receive or consider said application, for the reason that the applicant was not married to her Choctaw husband on or before the date of the passage of the Act of Congress approved July 1, 1902 (32 Stats., 641), as provided in Section 34 thereof, and on November 22, 1904 (I.T.D. 11844-1904), the same was approved by the Department.

The Department on September 6, 1906 (I.T.D. 11844-1904, 13592-1905, 15402-1906), rescinded its action of November 22, 1904, and remanded the record herein for rehearing and readjudication under the provisions of the Act of Congress approved April 26, 1906 (34 Stats., 137).

I am of the opinion that inasmuch as the records in charge of the Commissioner to the Five Civilized Tribes show that application was made for the enrollment of Lee Folsom as a citizen by intermarriage of the Choctaw Nation within the time limited by the provisions of the Act of Congress approved April 26, 1906 (34 Stats., 137), the same should now be determined upon its merits, and it is so ordered.



Commissioner.

Muskogee, Indian Territory,

November 4, 1906.

Mem. 15.
O.L.J.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of
Lee Folsom as a citizen by intermarriage of the Choctaw Nation.

D E C I S I O N.

It appears from the record herein that application was
duly made for the enrollment of Lee Folsom as a citizen by inter-
marriage of the Choctaw Nation within the time limited by the pro-
visions of the Act of Congress approved April 26, 1906 (34 Stats.,
137).

It further appears from the record herein that the appli-
cant, Lee Folsom, was on August 21, 1902, lawfully married to
William W. Folsom, a recognized and enrolled citizen by blood of
the Choctaw Nation, whose name appears as number 12619 upon the
final roll of citizens by blood of the Choctaw Nation approved by
the Secretary of the Interior March 6, 1903; that at the time of
said marriage both persons above mentioned were residents in good
faith of the Choctaw Nation; and that they lived together contin-
uously as husband and wife in said nation from the date of their
said marriage up to and including September 25, 1902.

I am, therefore, of the opinion that Lee Folsom should be
enrolled as a citizen by intermarriage of the Choctaw Nation under
the provisions of the Acts of Congress approved June 28, 1898 (30
Stats., 495), and July 1, 1902 (32 Stats., 641), and it is so
ordered.

 Commissioner.

Muskogee, Indian Territory,

NOV 16 1906

Memo--15.

COPY.

Muskogee, Indian Territory, November 16, 1906.

Lee Folsom,

Cornish, Indian Territory.

Dear Madam:

Inclosed herewith you will find a copy of the decision of the Commissioner to the Five Civilized Tribes, rendered November 16, 1906, granting your application for enrollment as a citizen by intermarriage of the Choctaw Nation.

The attorneys for the Choctaw and Chickasaw Nations have been furnished a copy of this decision and have been allowed fifteen days from the date of this notice within which to file protest against your enrollment. If at the expiration of that time no protest has been filed, the name of Lee Folsom will be placed upon the final roll of citizens by intermarriage of the Choctaw Nation to be submitted to the Secretary of the Interior for his approval.

Respectfully,

L. H. P. H. H.

Commissioner.

Registered.

Incl. Memo. 15.

Weno--15.

Muskogee, Indian Territory, November 16, 1906.

Guy P. Cobb,

Attorney at Law,

Ardmore, Indian Territory.

Dear Sir:

You are hereby notified that the Commissioner to the Five Civilized Tribes, on November 16, 1906, rendered his decision granting the application for the enrollment of Lee Folsom as a citizen by intermarriage of the Choctaw Nation.

The attorneys for the Choctaw and Chickasaw Nations have been furnished a copy of the decision and have been allowed fifteen days from the date of this notice within which to file protest against her enrollment. If at the expiration of that time no protest has been filed, the name of Lee Folsom will be placed upon the final roll of citizens by intermarriage of the Choctaw Nation to be submitted to the Secretary of the Interior for his approval.

Respectfully,

SIGNED

Commissioner.

Registered.

Memo-15.

COPY.

Muskogee, Indian Territory, November 16, 1906.

Mansfield, McMurray & Cornish,

Attorneys for the Choctaw and Chickasaw Nations,

McAlester, Indian Territory.

Gentlemen:

Inclosed herewith you will find a copy of the decision of the Commissioner to the Five Civilized Tribes, rendered November 16, 1906, granting the application for the enrollment of Lee Folsom as a citizen by intermarriage of the Choctaw Nation.

You are hereby advised that you will be allowed fifteen days from the date of this notice within which to file protest against his enrollment. If at the expiration of that time no protest has been filed, the name of Lee Folsom will be placed upon the final roll of citizens by intermarriage of the Choctaw Nation to be submitted to the Secretary of the Interior for his approval.

Respectfully,

MAILED

James B. Bishop

Registered.

Commissioner.

Incl. Memo.- 15.

CORR.

Muskogee, Indian Territory, November 16, 1906.

The Honorable,

The Secretary of the Interior.

Sir:

October 11, 1904, the Commission to the Five Civilized Tribes rendered its decision declining to receive or consider the application for the enrollment of Lee Polson as a citizen by inter-marriage of the Choctaw Nation, and on the same day the record in the case was forwarded the Secretary of the Interior. November 22, 1904 (I.T.D. 11844-1904), this action was approved by the Department.

June 25, 1906, a motion for a rehearing in this case, submitted June 22, 1906, by Guy P. Cobb, attorney at Law, Ardmore, Indian Territory, was transmitted the Department for consideration.

September 6, 1906, (I.T.D. 15402-1906), the Department rescinded its decision of November 22, 1904, and remanded the record for readjudication under the Act of Congress approved April 26, 1906 (34 Stat., 137).

October 29, 1906, additional proceedings were had in this case and November 4, 1906, an order was entered rescinding the action of the Commission to the Five Civilized Tribes of October 11, 1904, and on November 16, 1906, a decision was rendered granting the application of Lee Polson for enrollment as a citizen by inter-marriage of the Choctaw Nation.

Secretary 2.

The applicant, her attorneys and the attorneys for the Choctaw and Chickasaw Nations have been advised of this action and the attorneys for the Nations have been allowed fifteen days from the date of the notice within which to file protest against her enrollment. If at the expiration of that time no protest has been filed, the name of Lee Folson will be placed upon the final roll of citizens by intermarriage of the Choctaw Nation to be submitted to the Secretary of the Interior for his approval.

Respectfully,

SIGNED

Tamie Dixby

Woms, 18.

Commissioner.

Through the
Commissioner of Indian Affairs.

GUY P. COBB
LAWYER

ARDMORE, I. T.,

Oct.-23-06. 190

Wansfield McMurray & Cornish,

So. McAlester, I.T.

Gentlemen:-

In the matter of the application for enrollment of Lee Folsom(memo 15), a child of Lee Folsom is too ill to be left and it will be impossible for Lee Folsom to appear in Muskogee on the 26th. inst. The date set by the Commission is Oct. 26th. and I would esteem it a great favor if you would consent to the taking of her testimony on the 29th. inst. as she advises me that she thinks she will be able to appear on that date.

Very respectfully,

Guy P. Cobb

Choctaw 4406.

Muskogee, Indian Territory, July 30, 1904.

William W. Folsom,

Chamber, Indian Territory.

Dear Sir:

Your letter of July 13, 1904, addressed to the Secretary of the Interior, has been by him referred to the Commission for consideration and appropriate action. You state therein that, on August 21, 1902, you were married to Rosa Lee Thacher and that your wife appeared before the Commission at South McAlester in that year and made application for enrollment as an intermarried citizen of the Choctaw Nation. You therefore ask concerning her right to enrollment and also the right to enrollment of your child, born May 17, 1903.

In reply to your letter, you are informed that it appears from our records that, on December 25, 1902, Lee Folsom, wife of William Folsom, made application for enrollment as an intermarried citizen of the Choctaw Nation, and at that time she was advised as follows:—

"Under the provisions of the act of Congress approved July 1, 1902, and ratified by the citizens of the Choctaw and Chickasaw Nations September 25, 1902, this Commission is only authorized to receive the applications of such intermarried white persons as may have married recognized citizens of the Choctaw and Chickasaw Nations in accordance with the tribal laws, customs and usages, on or before the date of the passage of this act of Congress. Under this provision of law this Commission is without jurisdiction to receive, consider or make any record of your

W F F 2.

application for enrollment as a citizen by intermarriage of the Choctaw Nation."

Relative to the right to enrollment of your child born May 17, 1903, you are advised that, under the provisions of the Act of Congress approved July 1, 1902, the Commission is without authority to enroll children born to citizens of the Choctaw and Chickasaw Nations subsequent to September 25, 1902, the date of the ratification of said Act of Congress.

Respectfully,

Commissioner in Charge.

DEPARTMENT OF THE INTERIOR

Y.P.

D.C. 45429-1904.
I.T.D. 11844-1904.

WASHINGTON

THE
November 22, 1904.

LRS.

Commission to the Five Civilized Tribes,

Muskogee, Indian Territory,

Gentlemen:

November 18, 1904, the Commissioner of Indian Affairs submitted the papers in the matter of the application of Lee Folsom for enrollment as an intermarried citizen of the Choctaw Nation, and recommended that your decision adverse to the applicant be concurred in.

It appears that the applicant is a white woman, and was married to a Choctaw citizen August 21, 1902; that she made application for enrollment December 23, 1902.

The Department has considered, in connection with this matter, a communication of October 28, 1904, from Messrs. McCurtain & Hill, of South McAlester, Indian Territory, in which they contend that there is a conflict between sections 27 and 34 of the agreement with the Choctaw and Chickasaw Nations, act of July 1, 1902 (32 Stat., 641).

Finding no reason to disturb your decision, it is hereby affirmed. So advise said attorneys, and return to them the papers inclosed, stamped No. 11844, inclosures 6 and 7.

2---

A copy of the Commissioner's letter is inclosed.

Respectfully,

3 inclosures.

Thos. Ryan,
Acting Secretary.

DEPARTMENT OF THE INTERIOR
OFFICE OF INDIAN AFFAIRS
WASHINGTON

November 18, 1904.

Land.
78141-1904.

The Honorable,

The Secretary of the Interior.

Sir:

I enclose herewith a report from the Commission to the Five Civilized Tribes, dated November 5, 1904, transmitting the record of the application for enrollment as a citizen by intermarriage of the Choctaw Nation by Lee Folsom.

October 11, 1904, the Commission decided adversely to the applicant.

The record shows that the applicant is a white woman having no Indian blood; that she was married August 21, 1902, to William Folsom a Choctaw Indian, and that she never made application for enrollment prior to December 23, 1902.

In view of the record and of the Act of Congress approved July 1, 1902 (32 Stats 641), the approval of the Commission's decision adverse to the applicant is recommended.

Very Respectfully,

M. W. H.
V.

W. A. Jones
Commissioner.

D.C. McCurtain.

E.P. Hill.

McCurtain & Hill,

Lawyers

South McAlester, I.T.

Oct. 28, 1904.

The Secretary of the Interior,
Washington, D.C.

Sir:

In the matter of the action of the Commission to the Five Civilized Tribes in declining to receive or consider the application of Lee Folsom for enrollment as a citizen by intermarriage of the Choctaw Nation, we desire to submit a few statements in behalf of the applicant for your consideration.

The record in this case shows that Lee Folsom, a white woman, was married to William W. Folsom, a Choctaw Indian, on August 21, 1902; that on December 23rd, 1902, she made application to the Commission to the Five Civilized Tribes for enrollment as a citizen by intermarriage of the Choctaw Nation. October 11, 1904, the Commission decided that it had no power or authority to receive or consider the application of Lee Folsom, and that it should, therefore, decline to receive the same, and it was on said date accordingly so ordered. A copy of said decision was furnished the applicant, Lee Folsom, and the same is herewith enclosed for your information.

The facts are conceded to be as stated in the record; the only question in this case is one of law. And that question is: Whether the same is an intermarriage between a white person and a

-2- The Secretary of the Interior.

of the Choctaw or Chickasaw tribes will confer upon such white persons the right to enrollment is limited by the passage of the act by Congress ratifying the agreement, or by the final ratification of the agreement by the vote of the Choctaw and Chickasaw people. The decision of the Commission is based upon the theory that the time in which such intermarriage could confer right to enrollment was limited by the passage of the act by Congress, July 1, 1902. And in support of this view the Commission calls attention to section 34 of said act of Congress, as follows:

"During the ninety days first following the ratification of this agreement, the Commission to the Five Civilized Tribes may receive applications for the enrollment only of persons whose names are on tribal rolls, but who have not heretofore been enrolled by said Commission, commonly known as 'delinquents', and such intermarried white persons as may have married recognized citizens of the Choctaw and Chickasaw nations in accordance with the tribal laws, customs and usages, on or before the date of the passage of this act by Congress--to"

The language of this provision is plain, and there could be no question about the correctness of the Commission's decision were it not for other and conflicting provisions of the same statute disclosing a contrary intention. Section 27 of the same act provides:

"The rolls of the Choctaw and Chickasaw citizens and Choctaw and Chickasaw freedmen shall be made by the Commission to the Five Civilized Tribes, in strict compliance with the act of Congress approved June 28, 1898, (30 stats., 495), -----"

This section requires a strict compliance with the act of June 28, 1898,, which evidently means the following provision of said act as it is the only portion of said act referred to that relates to enrollment:

"Said commission is authorized and directed to make correct rolls of the citizens by blood of all the other tribes-----"

-3- The Secretary of the Interior.

with such intermarried white persons as may be entitled to Choctaw and Chickasaw citizenship under the treaties and laws of said tribes.

Section 28 of the Act of July 1, 1902, provides:

"The names of all persons living on the date of the final ratification of this agreement entitled to be enrolled as provided in section 27 hereof shall be placed upon the rolls made by said Commission; and no child born thereafter to a citizen or freedman and no person intermarried thereafter to a citizen shall be entitled to enrollment or to participate in the distribution of the tribal property of the Choctaws and Chickasaws."

It is no strange construction to say that the foregoing provision means that a white person who intermarries with a member of the Choctaw or Chickasaw tribes is entitled to enrollment and a distribution of the property of the Choctaws and Chickasaws. And it is this provision that presents a direct conflict with the provision upon which the Commission declined to receive the application of Lee Folsom. To harmonize these two provisions of the act would require a strained and, in fact, an unreasonable construction. In dealing with these different provisions, so conflicting in their nature, it is necessary to reject one or the other, and in reaching a correct conclusion as to which provision should prevail we must rely upon the manifest intention of the whole statute. This is an act of Congress confirmatory of an agreement between the Choctaws and Chickasaws and the United States Government for the purpose of dividing the common property of the tribes among their lawful members. Be where in any of the treaties or agreements for this purpose does it appear to be the intention of either party or of Congress to discriminate against any of the members or classes of members, except perhaps, as appears to be the effect of section 34 of this act, which is shown to be in direct conflict with other preceding sections.

-4- The Secretary of the Interior.

of the same act. If the Commission's construction of the law in this case is correct, there is extended a right to one class, members by blood, to become citizens entitled to enrollment, which is denied to another, intermarried white persons, who intermarry within the same time. This is a discrimination which we do not think it was the intention of either the tribes or the law to make; and we think this view is fully sustained by the preceding sections of the same act as well as all previous treaties, agreements and legislation upon this subject.

Article 38 of the treaty of 1866, as follows:

"Every white person who, having married a Choctaw or Chickasaw, resides in the said Choctaw or Chickasaw Nations, -----, is to be deemed a member of said nation, and shall be subject to the laws of the Choctaw or Chickasaw nation according to his domicile ----- in all respects as though he was a native Choctaw or Chickasaw"

has been by the courts construed to mean that a white person intermarried with a Choctaw or Chickasaw under the laws of the tribe is a member of the tribe to all intents and purposes, enjoying all the rights, privileges and immunities of a citizen by blood. The tribes in making their subsequent agreements have always respected such rights of the intermarried citizens. It does not appear that there is now a reason for discriminating against the intermarried citizens and we do not believe that fair interpretation of the law upon its full context will admit of such construction.

Wherefore, we would respectfully request that the Commission be directed to receive and consider the application of Lee Folsom.

Respectfully,

McCurtain & Hill.

Muskogee, Indian Territory, June 25, 1906.

Guy P. Cobb,

Attorney at Law,

Ardmore, Indian Territory.

Dear Sir:

Receipt is hereby acknowledged of your letter of June 13, 1906, transmitting motion to reopen the application of Lee Polson for enrollment as an intermarried citizen of the Choctaw Nation and the same has this day been transmitted to the Secretary of the Interior for consideration.

Respectfully,

Commissioner.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

G.R.

LLB

D.C. 39288-1906.
I.T.D. 11844-1904.
13592-1905.
15402-1906.

September 6, 1906.

L.R.S.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

June 26, 1906, you transmitted a motion for a reopening and a rehearing in the matter of the application of Lee Folsom for her enrollment as an intermarried citizen of the Choctaw Nation, wherein the Department on November 22, 1904 (I.T.D. 11844), affirmed the decision of the Commission to the Five Civilized Tribes of October 11, 1904, denying said application, on the ground that under section 34 of the act of Congress approved July 1, 1902 (32 Stat., 641), the then existing law, the Commission had no power or authority to receive or consider said application, for the reason that it appeared therefrom that applicant was married to her Indian spouse, William Folsom, on August 21, 1902, and not on or before July 1, 1902, the date of the passage of said act by Congress, as required by section 34 thereof, her application having been filed December 23, 1902.

In accordance with the approved opinions of the Assistant Attorney-General for this Department dated August 10, 1906, in the cases of Elsie J. Oakes (I.T.D. 14010-1906), and Birdie Rosenthal (I.T.D. 14012-1906), applicants for enrollment as intermarried citizens of the

Choctaw Nation, said motion for a rehearing is hereby granted, and the decision of the Department of November 22, 1904 (I.T.D. 11844), refusing to receive or consider said application is hereby set aside, and in view of the provisions of section 1 of the act of Congress approved April 26, 1906 (Public No. 129), the application of Lee Polson for her enrollment as an intermarried citizen of the Choctaw Nation is reopened, and the record therein is remanded to you for a rehearing and readjudication under the act of April 26, 1906.

Respectfully,

Jesse E. Wilson,

Assistant Secretary.

3 inclosures.

Through the Commissioner
of Indian Affairs.

1631-1-1

Memo.--15.

DEPARTMENT OF THE INTERIOR.
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, September 21, 1906.

Lee Folsom,

Savanna, Indian Territory.

Dear Madam:

You are advised that on September 6, 1906, the Secretary of the Interior granted the motion submitted by your attorney, Guy P. Cobb, for a reopening of your application for enrollment as a citizen by intermarriage of the Choctaw Nation, and returned the record therein for rehearing and readjudication under the Act of Congress approved April 26, 1906.

You are, therefore, hereby notified that the Commissioner to the Five Civilized Tribes, will at his office at Muskogee, Indian Territory, on Wednesday, October 10, 1906, at 11 o'clock, A. M., hear the testimony of such witnesses as you may present in the matter of your application for enrollment as an intermarried citizen of the Choctaw Nation.

For your information there is inclosed herewith a copy of Departmental letter of September 6, 1906, above referred to.

Respectfully,

DeB--13/21



Commissioner.

Mem--15.

Mem--15.

Muskogee, Indian Territory, September 21, 1906.

Guy P. Cobb,,

Attorney at Law,

Armore, Indian Territory.

Dear Sir:

You are hereby advised that on September 6, 1906, the Secretary of the Interior granted your motion for rehearing in the matter of the application of Lee Folsom for enrollment as an intermarried citizen of the Choctaw Nation, and returned the record therein for rehearing and readjudication under the act of Congress approved April 26, 1906.

You are, therefore, hereby advised that the Commissioner to the Five Civilized Tribes will, at his office at Muskogee, Indian Territory, on Wednesday, October 10, 1906, at 11 o'clock, A. M., hear the testimony of such witnesses as may be presented in the matter of the application of Lee Folsom for enrollment as an intermarried citizen of the Choctaw Nation.

For your information there is inclosed herewith a copy of Departmental letter of September 6, 1906, above referred to.

Respectfully,

Tams Bixby

Commissioner.

DeB--12/21

Memo--15.

Muskogee, Indian Territory, September 21, 1906.

Mansfield, McMurray & Cornish,

Attorneys for the Choctaw and Chickasaw Nations,

McAlester, Indian Territory.

Gentlemen:

You are advised that on September 6, 1906, the Secretary of the Interior granted the motion submitted by Guy P. Cobb, attorney at law, for a reopening of the application of Lee Folsom for enrollment as an intermarried citizen of the Choctaw Nation and returned the record therein for a rehearing and readjudication under the Act of Congress approved April 26, 1906.

You are, therefore, hereby notified that on Wednesday, October 10, 1906, at 11 o'clock, A. M., the Commissioner to the Five Civilized Tribes will, at his office at Muskogee, Indian Territory, hear the testimony of such witnesses as may be presented in the matter of the application of Lee Folsom for enrollment as an intermarried citizen of the Choctaw Nation.

For your information there is inclosed herewith copy of Departmental letter of September 6, 1906, above referred to.

Respectfully,

Tams Bixby

DeB--14/21.

Commissioner.

Mem. 15.

Muskogee, Indian Territory, October 17, 1906.

Lee Folsom,

Savannah, Indian Territory.

Dear Sir:-

Pursuant of the written request of your attorney, Guy P. Cobb, Ardmore, Indian Territory, the hearing in the matter of your application for enrollment as a citizen by intermarriage of the Choctaw Nation, heretofore set for hearing on Wednesday, October 10, 1906, has been continued to Friday, October 26, 1906, at nine A. M.

Respectfully,

Commissioner.

Mem. 15.

Muskogee, Indian Territory, October 17, 1906.

Guy P. Cobb,

Attorney at Law,

Ardmore, Indian Territory.

Dear Sir:-

Receipt is hereby acknowledged of your telegram of October 15, 1906, requesting a continuance in the matter of the application for the enrollment of Lee Polson as a citizen by intermarriage of the Choctaw nation.

In accordance therewith the hearing in said matter has been continued to Friday, October 26, 1906, at nine A. M.

Respectfully,

Commissioner.

Memorandum.

Muskogee, Indian Territory, October 17, 1906.

Mansfield, McKurray & Cornish,

Attorneys for the Choctaw and Chickasaw Nations,

McAlester, Indian Territory.

Gentlemen:-

You are hereby advised that pursuant to written request of Guy P. Cobb, attorney for Lee Folsom, an applicant for enrollment as a citizen by intermarriage of the Choctaw Nation, the hearing in said matter, heretofore set for Wednesday, October 10, 1906, has been continued to Friday, October 25, 1906, at nine o'clock A. M.

Respectfully,

Commissioner.

7-6049

Muskogee, Indian Territory, November 20, 1906.

Chief Clerk,

Choctaw Land Office,

Atoka, Indian Territory.

Dear Sir:

There is inclosed herewith for your information copy of
Choctaw roll card No. 6049 Lee Folsom.

You are therefore directed to make duplicate Choctaw roll
card of same number in your possession conform to this information
and add the name of this person to your list of undetermined appli-
cants for enrollment in the Choctaw Nation.

Respectfully,

Commissioner.

KB 2-20

7-6049

Muskogee, Indian Territory, November 20, 1906.

Chief Clerk,

Chickasaw Land Office,

Ardmore, Indian Territory.

Dear Sir:

There is inclosed herewith for your information copy of Choctaw roll card No. 6049, Lee Folsom.

You are therefore directed to make duplicate Choctaw roll card of same number in your possession conform to this information and add the name of this person to your list of undetermined applicants for enrollment in the Choctaw Nation.

Respectfully,

Commissioner.

EB 3-20

DEPARTMENT OF THE INTERIOR

WASHINGTON

ELB

D.C. 10314-1907.
I.T.D. 3510-1907.

February 18, 1907.

INS.

Direct.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

In accordance with the recommendation of the Indian Office of February 15, 1907 (Land 102746-1906), a copy whereof is inclosed for your information, your decision dated November 16, 1906, admitting to enrollment Lee Folsom as a citizen by intermarriage of the Cheataw Nation, is hereby affirmed.

You will advise applicant and her attorney of this action.

The papers in the case and a carbon copy hereof have been sent to the Indian Office.

Respectfully,

Thos Ryan

First Assistant Secretary.

1 ind. and 2 for Ind. Of.

A. F. Mc.
2-19-07.

Refer in reply to the following:

(COPY)

Land.
108746-1906.

DEPARTMENT OF THE INTERIOR
OFFICE OF INDIAN AFFAIRS
WASHINGTON

February 15, 1907.

The Honorable,

The Secretary of the Interior.

Sir:

Referring to Department letters of September 6, 1906 (I.T.D. 16402), November 22, 1903 (I.T.D. 11844) and August 10, 1906 (I.T.D. 9464), there is enclosed a report from the Commissioner to the Five Civilized Tribes, dated November 16, 1906, transmitting the record relative to the application of Lee Polson for enrollment as a citizen by intermarriage of the Choctaw Nation.

On December 23, 1902, Lee Polson applied to the Commission to the Five Civilized Tribes for enrollment as a citizen by intermarriage.

On November 4, 1906, the Commissioner held that the applicant was entitled to enrollment.

The record shows that Lee Polson was married on August 21, 1902, to William W. Polson, identified at No. 12619 on a final roll of citizens by blood of the Choctaw Nation approved by the Department on March 6, 1903, that they lived together in that Nation up to and after September 23, 1902.

Under the opinion of the Assistant Attorney General for the Department of August 10, 1906 (I.T.D. 9464), in the case of Elsie J. Oakes, the decision of the Commissioner favorable to the applicant is recommended for approval.

Very respectfully,

G. F. Larrabee,

ENC-1

Acting Commissioner.

7-6049

Muskogee, Indian Territory, January 19, 1907.

Chief Clark,
Chickasaw Land Office,
Ardmore, Indian Territory.

Dear Sir:

Receipt is hereby acknowledged of your letter of January 15, 1907, asking the status of the application for the enrollment of Lee Folsom as an intermarried citizen of the Choctaw Nation; you state that this information is desired in connection with a notation of the claim of Lee Folsom to certain lands and his right to institute contest provided the lands claimed by him have been filed on by other citizens.

In reply to your letter you are advised that the name of Lee Folsom has been placed upon a schedule of intermarried citizens of the Choctaw Nation which has been transmitted to the Secretary of the Interior for his approval. You will be notified when her enrollment is approved by the Department.

Respectfully,

Commissioner.

Choctaw 6050

Lucretia Hadnot

Dec. 31, 1906 Trans from Memo #194

Refused 2-15-07

6050

DEPARTMENT OF THE INTERIOR
COMMISSIONER TO THE FIVE CIVILIZED TRIBES
Muskogee, I. T. January 20, 1906.

In the matter of the alleged application for the enrollment of Lucretia Hadnot, nee Smith, as a citizen by blood of the Choctaw Nation.

Applicant appears by her husband, Green Hadnot.

No appearance on behalf of the attorneys for the Choctaw and Chickasaw Nations.

No proof of notice of the submission of the Chickasaw testimony on the attorneys for the Choctaw and Chickasaw Nations.

GREEN HADNOT, being first duly sworn, testifies as follows:

By the Commissioner:

- Q What is your name? A My name is Green Hadnot.
- Q How old are you? A I don't know exactly; I guess about sixty-one--something about that.
- Q What is your postoffice address? A Muskogee.
- Q Do you claim any right to enrollment yourself as a citizen of freedman of any Indian tribe? A No sir.
- Q What is your wife's name? A Lucretia Smith.
- Q Did your wife or any one for her ever make application for enrollment prior to this time? A In 1902.
- Q Who made that application for your wife? A Me and old man Sambo Barnett.
- Q Did you appear before the Commission yourself at that time? A They told me it was the Commissioner, that's all I knew; I was a stranger and never up in the office before.
- Q Where was the office? A It was in this building.
- Q What time of the year 1902 was it that you appeared? A Somewhere along in the first part of June; when I went home I broke my leg; I broke my leg on the 17th of June.
- Q Was that a short time after you left here? A Yes sir.
- Q Then you are certain that it was during the month of June, 1902 that you appeared here? A Yes sir.
- Q Did you at that time make application for the enrollment of your wife as a citizen by blood of the Choctaw Nation? A Yes sir, I did, and for six children.
- Q For your wife and six children? A Yes sir.
- Q What are these children's names? A Schrun.
- Q Is he the eldest? A Yes sir.
- Q How old is he? A I couldn't tell you to save my life; I guess about 14 or 15.
- Q What's the name of the boy? A Schrun.

DEPARTMENT OF THE INTERIOR
COMMISSIONER TO THE FIVE CIVILIZED TRIBES
Muskegee, I. T. January 20, 1906.

In the matter of the alleged application for the enrollment of Lucretia Hadnot, nee Smith, as a citizen by blood of the Choctaw Nation.

Applicant appears by her husband, Green Hadnot.

No appearance on behalf of the attorneys for the Choctaw and Chickasaw Nations.

No proof of notice of the submission of the following testimony on the attorneys for the Choctaw and Chickasaw Nations.

GREEN HADNOT, being first duly sworn, testifies as follows:

By the Commissioner:

- Q What is your name? A My name is Green Hadnot.
Q How old are you? A I don't know exactly; I guess about sixty-one--something about that.
Q What is your postoffice address? A Muskegee.
Q Do you claim any right to enrollment yourself as a citizen of freedmen of any Indian tribe? A No sir.
Q What is your wife's name? A Lucretia Smith.
Q Did your wife or any one for her ever make application for enrollment prior to this time? A In 1902.
Q Who made that application for your wife? A Me and old man Sambe Barnett.
Q Did you appear before the Commission yourself at that time? A They told me it was the Commissioner, that's all I know; I was a stranger and never up in the office before.
Q Where was the office? A It was in this building.
Q What time of the year 1902 was it that you appeared? A Somewhere along in the first part of June; when I went home I broke my leg; I broke my leg on the 15th of June.
Q Was that a short time after you left here? A Yes sir.
Q Then you are certain that it was during the month of June, 1902 that you appeared here? A Yes sir.
Q Did you at that time make application for the enrollment of your wife as a citizen by blood of the Choctaw Nation? A Yes sir, I did, and for six children.
Q For your wife and six children? A Yes sir.
Q What are these children's names? A Gehrun.
Q Is he the eldest? A Yes sir.
Q How old is he? A I couldn't tell you to save my life; I guess

Q How old is he? A There's only a year's difference between them.
 Q What's the name of the next one? A Artemis.
 Q How old is Artemis--is that a boy or girl? A A girl.
 Q How old is she? A About a year or two younger than Frank.
 Q What is the name of the next one? A Freddie.
 Q How old is Freddie? A There's about the same difference.
 Q What is the name of the next one? A Bessie.
 Q About the same difference between her age and Freddie's? A Yes sir.
 Q What's the name of the next one? A That's all.
 Q The ones you have just named are all that are living at the present time? A Only three of them are living.
 Q Which three? A Sebrun, Freddie and Bessie.
 Q When did Frank die? A I couldn't tell you the year he died.
 Q Haven't you any idea of when these children died? A No sir.
 Q Were all of them dead except these three at the time you appeared in 1902? A No sir, lost two since.
 Q What ones of these children were living when you appeared in 1902? A There was four living at that time.
 Q Which four were living at that time? A Sebrun, Artemis, Bessie and Freddie.
 Q When did Artemis die--how long after you were here? A Not long; I can't tell you exactly; I had my leg broken and then I forgot----
 Q How long after you had your leg broken? A I couldn't tell you exactly.
 Q Who was present with you when you came up here in 1902? A Old man Sambo Barnett.
 Q Where does he live? A I found him here in town--I couldn't tell you where he lives.
 Q Where is he now? A He died year before last.
 Q Was anybody else with you at the time you made that application? A No, there wasn't any one right with me.
 Q Did anybody come up to the building with you? A Yes sir.
 Q Who did? A Fellow named Jones, he worked over at the Musko-gee-----
 Q Did he come in with you? A No sir, just came up to the building with me; we was old chums.
 Q Where is your wife at the present time? A She is in Texas.
 Q How long has she been in Texas? A I can't tell you just how long she has been there.
 Q Does she live down there? A A Yes sir, living there now.
 Q How long has she been living there, as much as a year? A No sir, she was up here a long time after we left Tishomingo.
 Q Did your wife ever appear and make application to the Commission? A Yes sir.
 Q When? A 1904, somewhere along about September.
 Q That's the first time she ever appeared before the Commission? A Yes sir.
 Q How much Cheetaw blood do you claim your wife has? A Her mother was three-quarters and her father was a full blood.
 Q Has your wife any negro blood? A Not a bit in the world--its always been claimed she didn't have any negro blood at all.
 Q Does anyone else know anything about your alleged application at the time you came up here and applied to the Commission? A Not more than just me being here on that business.
 Q Who knows? A Old lady Patsy McIntosh.
 Q Who else? A McRae.
 Q Anybody else? A I am afraid to say whether Catfish Kelly knows or not; I stopped there.

- Q Did Patsy McIntosh or Catfish Kelly or McRae come up here with you? A No sir, I just met McRae when I got out on the street.
- Q Have you got any witnesses here today who can testify to your having made application? A I have got but one.
- Q Who is that one? A Mr. Curns.
- Q Was he present when you made the application? A He was not exactly present, but he showed me which room and told me where to go.

Witness excused.

DAVE CURNS, being first duly sworn, testifies as follows:

- Q State your name? A Dave Curns.
- Q What is your age? A Thirty-six.
- Q What is your postoffice address? A Muskeges.
- Q Are you acquainted with the applicant here today? A Yes sir.
- Q How long have you known him? A Just since he came here to the Territory, about 1902.
- Q Do you know anything about him ever having appeared before the Commission? A The time he came down to my house and got Sambo Barnett and they came up here and he put in an application for his wife.
- Q When was that? A In 1902.
- Q Do you remember what time of the year it was? A Along in June.
- Q Were you working for the Commission at that time? A Yes sir.
- Q Did Barnett live with you? A Yes sir.
- Q And Hadnot came down to your house and got Barnett? A Yes sir.
- Q Do you know whether they came up to the Commission's offices? A Yes sir, they came on up here.
- Q Did you see them up here? A Yes sir, I saw them come in the office; that's the last time I saw them.
- Q Do you know what they did? A No sir.
- Q You didn't see them after they got in the office? A No sir.
- Q Did they tell you what they were coming for? A Yes sir, he told me he was coming to put in his application for his wife's rights.
- Q Did he say that he was coming to be enrolled? A No, he didn't say, I didn't hear him say that at all.
- Q Did you know what right he claimed? A No sir, I don't know what right he claimed; I know he said he came in to make application for his rights.
- Q What did he come in and get Barnett for? A He come to get Barnett to help him get his rights.
- Q Is Barnett living now? A No sir, he's dead.
- Q What was Barnett--was he a lawyer? A No sir, he was a Greek freedman.
- Q Did he know anything about Hadnot's rights? A He told he knew something about it.
- Q You are positive they came up here together? A Yes sir, that's all I know.
- Q After they got through up here did they come back to your house? A I remember him coming up but I am not sure about Barnett.

- Q You don't remember seeing Hadnot again? A I have seen him off and on; he said he was going to Texas to work.
- Q How do you happen to remember this date so well, the month and the year when he appeared at your house? A I just remember it, I do.
- Q Anything that recalls it to your mind, that makes you remember it so well? A No sir, I just remember it.
- Q Since you have been around here in the Commission, you have been working here a long time? A Yes sir.
- Q You have seen any number of people up here making application? A Yes sir.
- Q You remember the times those people appeared? A Yes sir, a good many of them I can.
- Q After two or three years pass can you remember a certain person was up here at a certain time? A Yes sir.
- Q When was the last time you saw Hadnot before you came up here today? A I saw him off and on standing round here on the street at the Commission.
- Q Did you ever talk to him about appearing before the Commission? A Yes sir, he come to me to ask me--
- Q When did he come to you? A He come to me day before yesterday.
- Q Is that the first time he asked you about it? A Yes sir, that's the first time he spoke about his rights.
- Q You had not thought about his application from the time he came down to your house up until day before yesterday? A Yes sir, I thought about it; he came to me and said he had his business all straightened out.
- Q Are you willing to state under oath, Dave, that you saw this Hadnot and Sambo Barnett come up to the Commission's office in June 1902? A Am I willing?
- Q Can you state that under oath? You are certain? A Yes sir I am certain.
- Q Do you know Hadnot's wife? A No sir, I don't know her.
- Q Does Hadnot live here now? A Yes sir, he lives here now, so he tells me he does.
- Q Has he been living here long? A He's been here all this last gone summer and this winter.
- Q Was he living here in 1902 when he came to your house? A No sir. I don't hardly think he was in 1902.

Witness excused.

GRIVEN HADNOT recalled:

- Q How old is your wife? A She was born 18 and 57.
- Q What was the name of her father? A I just tell you like I heard her mother say; they claimed that her father was old man Jehn Smith.
- Q Was he an Indian? A That was my wife's mother's father.
- Q I asked you your wife's father's name? A They claim that he was old man Jehn Smith.
- Q What was Jehn Smith, an Indian? A An Indian.
- Q A Choctaw Indian? A Yes sir.
- Q Was he a full-blood Indian? A They told me he was a full-blood.
- Q Did you ever see him? A No sir, I never saw him.
- Q What was your wife's mother's name? A Name was Mary.

Q Was she an Indian? A She was three-quarters Indian and one-quarter Creek.

Q Did she have any negro blood? A They claim that she didn't have any.

Q Was your wife ever a slave? A She was never a slave.

Q Was your wife's mother a slave? A She was a slave for a little while, because they was run out of here and sold.

Q Was she a slave at the beginning of the war? A No sir, she was a slave just a little before the war ended.

Q Who did she belong to? A She belonged to Shiely Ann Austin.

Q Who was Shiely Ann Austin? A That's all I know.

Q An Indian or a white man? A I don't know whether he was an Indian or a white man.

Q You understand then that your wife's mother was a slave at about the time of the war? A The war had been going on for a little while and she was carried out from here and sold.

Q Was your wife taken with her? A No sir, she got with her later; she was with her at one of her uncles'.

Q Where was your wife's mother taken during the war? A She was first taken down about Pine Bluff, Arkansas.

Q Did she stay there in Arkansas during the war? A Yes sir, stayed about Pine Bluff during all the war, nearly.

Q Where was she when the war ended? A She was somewhere down on the edge of Louisiana.

Q Was your wife with her? A I can't tell you just exactly whether she was with her or not.

Q She was just a small girl? A Yes sir.

Q Wasn't she with her at that time--with her mother? A At the time she was freed?

Q When the war closed? A I think shortly afterwards.

Q Was your wife's mother freed down about Louisiana? A Yes sir.

Q Where did she go then? A She went down to a little place called Hickory Flat, I think.

Q In Texas or Louisiana? A Louisiana.

Q Did she stay there? A Yes sir.

Q How long did she live there? A I couldn't tell you just how long she stayed there.

Q Was your wife with her at that time? A No sir, one of the boys brought her.

Q She came down where her mother was? A Yes sir.

Q How long did they live in Louisiana? A I couldn't tell you just exactly how long they did live there.

Q Did your wife ever live in Indian Territory? A Yes sir.

Q When did she come to the Territory? A They had been back up in here two or three times before I married her; I couldn't tell you how long they stayed there.

Q When did you marry her? A About 16 years ago.

Q Where was she living at the time you married her? A Louisiana.

Q And she had been living there all the time from the time of the war? A No sir, just roaming around from one place to another.

Q You say that after the war she went to Louisiana? A Yes sir.

Q When you married her she was living in Louisiana? A Yes sir.

Q Isn't it a fact that she never lived in the Territory up to that time? A She had lived here.

Q When did she leave here? A A little before the war they was carried out.

Q But from the time she was carried out until the time you married her she had not lived in the Territory? A I couldn't tell you just exactly.

- Q To the best of your knowledge she had not lived here prior to your marriage to her? A I often heard them speaking about being close to Fort Smith, in the Sugar Leaf Mountains.
- Q Where were you living at the time you married your wife? A I wasn't stationery anywhere--first in one place and then another.
- Q Didn't you have any home? A No sir.
- Q Where did you and your wife live after your marriage? A We lived in Morgan City for a while.
- Q What state? A Louisiana.
- Q How long did you live there? A We lived there about eight months.
- Q Then where did you go? A We moved from there to Sabine Pass.
- Q How long did you live there? A Three or four months.
- Q Then where did you go? A On to Beaumont.
- Q How long did you stay there? I couldn't tell you exactly.
- Q Your wife is at present in Beaumont? A She's down at one of her sisters' in Louisiana.
- Q When you came to Beaumont how long did you live there? A I don't know sir.
- Q As much as a year? A Yes sir.
- Q Two years? A I don't know.
- Q Where did you go when you left Beaumont? A Came back up in Newton County, Texas.
- Q How long did you live there? A I was working at logs--I couldn't tell you.
- Q Where did you go when you left Newton County? A Jasper County.
- Q Then where did you go? A To Ardmore.
- Q Indian Territory? A Yes sir.
- Q When did you go to Ardmore? A I couldn't tell you what year.
- Q How long ago? A I couldn't tell you what year to save my life.
- Q How long did you stay in Ardmore? A We stayed there a good long while.
- Q Was your wife ever recognized as a Choctaw Indian by the tribal authorities--did she ever draw any money from the tribe or was her name ever put on any tribal roll? A I don't think it was.
- Q Was she ever admitted to citizenship in the Choctaw Nation? A I don't know what you call that.
- Q Did she ever apply to any committee or court or commission? A Not that I knew of.
- Q So far as you know then, your wife's name has never been placed on any tribal roll, is that correct? A No sir, not as I know of.
- Q When you claim to have appeared before the Commission in 1902, is that the first time you or your wife had ever made application to the Commission? A She had written a letter before that.
- Q How long before that? A A good long while--a long while.
- Q What do you mean by a long time--a year, two years, three years? A Must have been nearly two years before.
- Q Are you the father of all these children you have named? A Yes sir.
- Q Your wife has never gone under any other name except Lucretia Smith and Lucretia Madnet; is that right? A Yes sir.

Witness excused.

Olga Petreff, a stenographer to the Commissioner to the Five Civilized Tribes, on oath states that she correctly reported the proceedings in the above entitled cause and that the foregoing is a full, true and correct transcript of her stenographic notes thereof.

Olga Petreff

Subscribed and sworn to before me this 23rd day of January, 1908.

Myron White
Notary Public

Memo.-194.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the alleged application for the enrollment of Lucretia Hadnot, et al., as citizens by blood of the Choctaw Nation.

-----ooOoo-----

It appears from the record herein that on January 20, 1906, Green Hadnot appeared before the Commissioner to the Five Civilized Tribes and presented testimony relative to an application alleged to have been made for the enrollment of his wife, Lucretia Hadnot, and her four minor children, Sebrun, Artemis, Bessie and Freddie Hadnot, as citizens by blood of the Choctaw Nation.

On said date Green Hadnot testified that he was the husband of Lucretia Smith; that in June, 1902, he appeared before the Commission to the Five Civilized Tribes at Muskogee, Indian Territory, in company with Sambo Barnett, and made application for the enrollment of his wife and his four minor children, Sebrun, Artemis, Bessie and Freddie Hadnot, as citizens by blood of the Choctaw Nation; and that in 1904, his wife, Lucretia Hadnot, personally appeared before the Commission at Muskogee, Indian Territory, and made application for the enrollment of herself.

Dave Curns, a janitor in the employ of the Commission, testified that in June, 1902, while in the employ of the Commission to the Five Civilized Tribes, he met the witness, Green Hadnot, at the offices of said Commission, and was informed by him that "he was coming to put in his application for his rights", but that he does not know whether or not said Green Hadnot made application for the enrollment of his wife and children as citizens by blood of the Choctaw Nation.

It does not appear from the records in the possession of this office that any application of any nature whatsoever was ever made to the Commission to the Five Civilized Tribes for the enrollment of Lucretia Hadnot and her minor children.

I am of the opinion that the evidence fails to establish that any application was ever made for the enrollment of Lucretia Hadnot, Sebrun Hadnot, Artemis Hadnot, Bessie Hadnot and Freddie Hadnot as citizens by blood of the Choctaw Nation within the time limited by the provisions of the Act of Congress approved July 1, 1902 (32 Stats., 641), and that no authority exists for the receipt of any application for their enrollment at this time, and I, therefore, decline to receive the same.


Commissioner.

Muskogee, Indian Territory,

MAR 24 1906

Memo. 194

Muskogee, Indian Territory, March 24, 1906.

Green Hadnot,

Muskogee, Indian Territory,

Dear Sir:

Inclosed herewith you will find a copy of the order of the Commissioner to the Five Civilized Tribes, dated March 24, 1906, declining to receive the application for the enrollment of your wife, Lucretia Hadnot, and of your children, Sebrun Hadnot, Artemis Hadnot, Bessie Hadnot and Freddie Hadnot as citizens by blood of the Choctaw Nation.

The order, with the record of proceedings in the case, is this day transmitted to the Secretary of the Interior for review. The final decision of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

SIGNED

Wm. O. Beall.

Acting Commissioner.

Registered.

Incl. Memo. 194

Memo. 194

COPY.

Muskogee, Indian Territory, March 24, 1906.

Merritt Belick,

Muskogee, Indian Territory,

Dear Sir:

Inclosed herewith you will find a copy of the order of the Commissioner to the Five Civilized Tribes, dated March 24, 1906, declining to receive the application for the enrollment of Lucretia Hadnot, Sebrun Hadnot, Artemis Hadnot, Bessie Hadnot and Freddie Hadnot, as citizens by blood of the Choctaw Nation.

The order, with the records of proceedings in this case, is this day transmitted to the Secretary of the Interior for review. The final decision of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

SIGNED

Wm. A. Bell.

Acting Commissioner.

Registered.

Incl. Memo. 194.

Memo. 194

Muskogee, Indian Territory, March 24, 1906.

COPY

Mansfield, McMurray & Cornish,

Attorneys for Choctaw and Chickasaw Nations,

South McAlester, Indian Territory,

Gentlemen:

Inclosed herewith you will find a copy of the order of the Commissioner to the Five Civilized Tribes, dated March 24, 1906, declining to receive the application for the enrollment of Lucretia Hadnot, Sebrun Hadnot, Artemis Hadnot, Bessie Hadnot and Freddie Hadnot as citizens by blood of the Choctaw Nation.

The order, with the record of proceedings in the case, is this day transmitted to the Secretary of the Interior for review. The final decision of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

SIGNED *Wm. O. Beall.*
Acting Commissioner.

Incl. Memo. 194

COPY.

Muskogee, Indian Territory, March 24, 1906.

The Honorable,

The Secretary of the Interior.

Sir:

There is transmitted herewith the record of proceedings in the matter of the application for the enrollment of Lucretia Hadnot, Sebrun Hadnot, Artemis Hadnot, Bessie Hadnot and Freddie Hadnot as citizens by blood of the Choctaw Nation, including the order of the Commissioner to the Five Civilized Tribes, dated March 24, 1906, declining to receive said application.

Respectfully,

SIGNED

Wm. O. Beall.

Acting Commissioner.

2 Incl. Memo. 194.

Through the
Commissioner of Indian Affairs.

Memo. 194

Muskogee, Indian Territory, July 26, 1906.

Green Hadnot,

Muskogee, Indian Territory.

Dear Sir:-

Receipt is hereby acknowledged of the application for the enrollment of Lucretia Hadnot as a citizen of the Choctaw Nation and which was filed in this office June 25, 1906.

You are advised that the same has this day been transmitted to the Secretary of the Interior for consideration in connection with this case.

Respectfully,

Commissioner.

Muskogee, Indian Territory, July 26, 1906.

The Honorable,

The Secretary of the Interior.

Sir:

On March 24, 1906, the Commissioner to the Five Civilized Tribes rendered his decision declining to receive the application of Lucretia Hadnot for enrollment as a citizen by blood of the Choctaw Nation, and on the same date the record in this case, together with such decision was forwarded to the Secretary of the Interior.

I now have the honor to transmit herewith, for consideration in connection with this case, an application filed by Green Hadnot for the enrollment of Lucretia Hadnot as a citizen of the Choctaw Nation.

Respectfully,

Through the Commissioner
of Indian Affairs.

Commissioner.

Mem. 194

In Re, the Application of Lucretia Hadnot for
Enrollment As a Choctaw Citizen-----.

Honorable Secretary Of The Interior:-

Your petitioner, Lucretia Hadnot, by her lawful husband Green Hadnot, respectfully represents unto your Honor that on the 24th. day of March, 1906, the Commission to the Five Civilized Tribes rendered a decision denying the application of your petitioner, the said Lucretia Hadnot, for enrollment as a Choctaw Citizen because, as your petitioner is advised, her application was made after the time limit as established by law had expired, your petitioner having been given an opportunity on the 20th. day of January, 1906, to establish that an application had been or attempted to be made in the year 1904; that your petitioner failed to establish this fact to the satisfaction of the Commission, hence the denial of her claims.

Now, therefore, your petitioner respectfully prays that she may be given the benefit of the late Curtis Act that provides that where application has been made as shown by the records in charge of the Commission to the Five Civilized Tribes before the 1st. day of December, 1906, said Commission may allow the applicant to offer proof on the merits of the case.

By reference to the records of the Commission there will be found among the letter files copies of numerous letters written to Lucretia Hadnot in reply to letters from said applicant for the purpose of establishing her claims. Petitioner respectfully asks that reference be made to copy of letter bearing date of September 15th. 1904, replying to petitioner's letter of the 5th. inst. inclosing affidavit of Shalyan Alston; also one of the Month of November, 1905, informing your petitioner that the Commission could not receive her proposed application at that time.

Respectfully Submitted.

For Lucretia Hadnot.

In Re, The Application of
Lucretia Mannot For Re-
ment As A Choctaw Citizen.

Petition For Re-Opening.

COPY.

1906

CRW

DEPARTMENT OF THE INTERIOR,
WASHINGTON. November 23, 1906.

I.T.D.21274-1906
LRS

Commissioner to the Five Civilized Tribes,
Muskegee, Indian Territory.

Sir:

October 25, 1906 (Land 64719), the Indian Office transmitted the record in the matter of the application for the enrollment of Lucretia Hadnot and her minor children, Sebrun, Artemis, Bessie, and Freddie Hadnot, as citizens by blood of the Choctaw Nation, recommending the approval of your decision of March 24, 1906, refusing to receive said application, as the same had not been made within the time prescribed by law.

It appears that on September 16 , 1905, the Department forwarded to you a communication from the principal applicant, requesting a hearing in her citizenship case. Under the ruling of the Department said letter is to be considered as an application for enrollment.

In view of section 1 of the act of April 26, 1906 (34 Stat., 137), the papers in the matter are returned for a readjudication.

A copy of Indian Office letter is inclosed.

Respectfully,
Thos Ryan
First Assistant Secretary

Through the Commissioner
of Indian Affairs.

5 inclosures.

Refer in reply to the following:

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,

Land
26936-1906
64719-1906

WASHINGTON. October 24, 1906

The Honorable,

The Secretary of the Interior.

Sir:

There is enclosed herewith a report from the Commissioner to the Five Civilized Tribes, dated March 24, 1906, transmitting the record in the case of Lucretia Hadnot, et al. as citizens of the Choctaw Nation.

On January 20, 1906, Green Hadnot made application for the enrollment of his wife, Lucretia Hadnot and her four minor children, Sebrun, Artemis, Bessie and Freddie Hadnot, as citizens by blood.

On March 24, 1906, the Commissioner held that the above named applicants were not entitled to enrollment.

The testimony of Green Hadnot shows that he was the husband of Lucretia Hadnot, nee Smith, and that in January 1902, he made application to the Commission to the Five Civilized Tribes at Muskogee, I.T. in company with one Sambo Barnett, for the enrollment of his wife and the four minor children above mentioned, Sebrun, Artemis, Bessie and Freddie Hadnot, as citizens by blood. He further said that in 1904 his wife, Lucretia Hadnot personally appeared before the Commission at Muskogee, Indian Territory, and made further application for herself as a citizen by blood/

Dave Gurns, a janitor, in the employ of the Commission testified that in June 1902, while in the employ of the Commission he met the witness, Green Hadnot, at the offices of the Commission and was informed by him that he intended to put in an application for his rights."

2

Curns further said that he directed Hadnot to the ^{offices of} Commission but did not know whether he made the application or not. It does not appear from the records in the possession of the Commissioner's Office that any application of any nature whatever was ever made to the Commission for the enrollment of Lucretia Hadnot or her four minor children.

Since the decision of the Commissioner on March 24, 1906, the applicants have filed a petition for a reopening of this case in which they set out that they should be given the benefit of Sec. 1 of the Act of Congress approved April 26, 1906 (34 Stats., 137) giving them the right to make application before the 1st day of December, 1906. Their petition shows, however, that they were given an opportunity on January 20, 1906, to establish that an application had been made in the year, 1904, but as they failed to establish this application and do not propose to present any evidence which was not presented at that time, there is no reason, in the opinion of this Office, for reopening the case and allowing a rehearing of the testimony herein, and therefore in view of the evidence set forth and of Sec 34 of the Act of Congress approved July 1, 1902 (32 Stats. 641) which provides that all applications for enrollment as citizens shall be made within ninety days after September 25, 1902, the date of the ratification of the Act, and also inasmuch as this case does not come within the provisions of Sec. 1 of the Act of April 26, 1906 (34 Stats., 137) which extends the time within which applications for enrollment to citizenship may be made to December 1, 1906, the decision of the Commissioner is recommended for approval.

Very respectfully,
C.F. Larrabee

Acting Commissioner

HRD BHC

Muskogee I. T. 9/9, 1905.

Mr. Hitchcock

Sec. Interior

Washington, D. C.

Dear Sir:

I now write you for information in regard to enrollment. My father Peter Smith was a Creek he lived and died here in the Creek nation and his name appears on the roll. My mother Mary Ann Smith was a three fourth Choctaw. I have all the proof necessary I think to establish my right if you will grant me a hearing. I have been for two years waiting on some lawyers and I cant find out any more about it than when I first began. So Mr. Hitchcock, I pray of you to please consider my case the witness I have are old residents of the Indian Ter. and are personally acquainted with my people. I appeared before the Dawes Commission and they told me I would have have to get a grant of opening from you. I then put my case in the hands of a lawyer and that seemed to be the last of it. So I now come to you for information and your consideration. I pray you that I may receive a favorable reply.

I beg to remain Sincerely

(Signed) Lucrecy Smith Hadnett

Direct my mail to Green Hadnett,

Muskogee I. T.

Department of the Interior,
Received Sep. 11, 1905.
No. 9041.
Indian Territory Division.

Commissioner to Five Tribes.
No. 43743-1905
Received Sep. 19, 1905.

Department of the Interior, September 16, 1905. Respectfully referred to the Commission to the Five Civilized Tribes for consideration and appropriate action. (Signed) Thos. Ryan, Acting Secretary.

Memo-194
O.L.J.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the alleged application for the enrollment of Lucretia Hadnot, et al., as citizens by blood of the Choctaw Nation.

-----00000-----

It appears from the record herein that on January 20, 1906, Green Hadnot appeared before the Commissioner to the Five Civilized Tribes at Muskogee, Indian Territory, and presented testimony relative to an application alleged to have been made for the enrollment of his wife, Lucretia Hadnot, and her four minor children, Sebrun, Artemis, Bessie and Freddie Hadnot as citizens by blood of the Choctaw Nation within the time limited by the provisions of the Act of Congress approved July 1, 1902 (32 Stats., 641).

March 24, 1906, the Commissioner to the Five Civilized Tribes rendered his decision therein, wherein it was held that the evidence failed to establish that any application was ever made for the enrollment of said applicants as citizens by blood of the Choctaw Nation within the time limited by the provisions of the Act of Congress approved July 1, 1902 (32 Stats., 641), and no authority existing at said time for the receipt of any application for their enrollment, he declined to receive or consider the same.

It appearing that on September 16, 1905, the Department forwarded to this office a communication from the applicant, requesting a hearing in the matter of her application for enrollment as a citizen by blood of the Choctaw Nation, the Department on November 23, 1905 (I.T.D. 21274-1906), in view of Section One of the Act of Congress approved April 26, 1906 (34 Stats., 137), returned the record in said case for readjudication.

I am of the opinion that the letter above referred to constituted a sufficient application for the enrollment of Lucretia Hadnot as a citizen by blood of the Choctaw Nation made within the time limited by the provisions of the Act of Congress approved April 26, 1906 (34 Stats., 137), and that the same should now be determined upon its merits, and that the decision of the Commissioner to the Five Civilized Tribes of March 24, 1906, declining to receive said application should be rescinded, and it is so ordered.

I am further of the opinion that the application made for the enrollment of Sebrun Hadnot, Artemis Hadnot, Bessie Hadnot and Freddie Hadnot, January 20, 1906, as citizens by blood of the Choctaw Nation, should be considered as an application for the enrollment of said applicants as citizens by blood of the Choctaw Nation, under the provisions of the Act of Congress approved April 26, 1906 (34 Stats., 137), and that the decision of the Commissioner to the Five Civilized Tribes of March 24, 1906, refusing to consider or receive any application for their enrollment, should be rescinded, and it is so ordered.

Muskogee, Indian Territory,

DEC 31 1906

Commissioner.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of
Lucretia Hadnot, et al., as citizens by blood of the Choctaw Nation.

D E C I S I O N .

It appears from the record herein that application was duly made for the enrollment of Lucretia Hadnot as a citizen by blood of the Choctaw Nation within the time limited by the provisions of Section One of the Act of Congress approved April 26, 1906 (34 Stats., 137), and for the enrollment of her minor children, Sebrun, Artemis, Freddie and Bessie Hadnot, as citizens by blood of said nation under the provisions of Section Two of the Act above cited.

It further appears from the record herein that the principal applicant, Lucretia Hadnot, was born in the year 1867, and is the daughter of John Smith and Mary Smith, both of whom are alleged to have been Choctaw Indians. The minor applicants herein are the children of said Lucretia Hadnot and Green Hadnot, a non-citizen.

It does not appear from the record herein or from the records in the possession of this office that any of the applicants herein has ever been enrolled by the Choctaw tribal authorities as a member of the Choctaw tribe, or admitted to Choctaw citizenship by any duly constituted authority.

I am, therefore, of the opinion that the application for the enrollment of Lucretia Hadnot as a citizen by blood of the Choctaw Nation should be denied under the provisions of the Act of Congress approved June 28, 1898 (30 Stats., 495), and that the application for the enrollment of Sebrun Hadnot, Artemis Hadnot, Freddie Hadnot and Bessie Hadnot as citizens by blood of the Choctaw Nation should be denied, under the provisions of the Act of Congress approved April 26, 1906 (34 Stats., 137), and it is so ordered.



Commissioner.

Muskogee, Indian Territory,

FEB 15 1907

7- 6050

COPY

Muskogee, Indian Territory, February 15, 1907.

Lucretia Hadnot,

Muskogee, Indian Territory.

Dear Madam:-

Inclosed herewith you will find a copy of the decision of the Commissioner to the Five Civilized Tribes, rendered February 15, 1907, denying the application for your enrollment and for the enrollment of Hebrun Hadnot, Artemis Hadnot, Freddie Hadnot and Bessie Hadnot as citizens by blood of the Choctaw Nation.

The decision, with the record of proceedings in the case, is this day transmitted to the Secretary of the Interior for review. The final decision of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

SIGNED *Jams Bixby*

Commissioner.

Registered.
Incl. 7-6050.

7-6050.

COPY

Muskogee, Indian Territory, February 15, 1907.

George K. Powell,
Attorney-at-law,
Muskogee, Indian Territory.

Dear Sir:-

Inclosed herewith you will find a copy of the decision of the Commissioner to the Five Civilized Tribes, rendered February 15, 1907, denying the application for the enrollment of Lucretia Hadnot, Sebrun Hadnot, Artemis Hadnot, Freddie Hadnot and Bessie Hadnot as citizens by blood of the Choctaw Nation.

The decision, with the record of proceedings in the case, is this day transmitted to the Secretary of the Interior for review. The final decision of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

SIGNED *Tame Bixby*

Commissioner.

Registered.
Incl. 7-6050.

7-6050.

COPY

Muskogee, Indian Territory, February 15, 1907.

Mansfield, McMurray & Cornish,

Attorneys for the Choctaw & Chickasaw Nations,

South McAlester, Indian Territory.

Gentlemen:-

Inclosed herewith you will find a copy of the decision of the Commissioner to the Five Civilized Tribes, rendered February 15, 1907, denying the application for the enrollment of Lucretia Hadnot, Sebrun Hadnot, Artemis Hadnot, Freddie Hadnot and Bessie Hadnot as citizens by blood of the Choctaw Nation.

The decision, with the record of proceedings in the case, is this day transmitted to the Secretary of the Interior for review. The final decision of the Secretary will be made known to you as as this office is informed of the same.

Respectfully,

SIGNED *Jams Bixby*

Commissioner.

Incl. 7-6050.

COPY

McAlester, Indian Territory, February 15, 1907.

The Honorable,

The Secretary of the Interior.

Sir:

There is transmitted herewith record of proceedings in the matter of the application for the enrollment of Lucretia Madnet, Sebrun Madnet, Artemis Madnet, Freddie Madnet and Bessie Madnet as citizens by blood of the Choctaw Nation, including the decision of the Commissioner to the Five Civilized Tribes, dated February 15, 1907, denying said application.

Respectfully,

SIGNED *Tama Bixby*

Commissioner.

2 Incl. 7-6050.

Through the
Commissioner of Indian Affairs.

YP

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

O.K.

LRS

D.C. 12633-1907.

I.T.P. 6196, 6216, 6220, 6224-07.
6236, 6246, 6266, 6272-07.
6286, 6288, 6290, 6302-07.
6306, 6478, 6480, 6486-07.
6492, 6506, 6508, 6514-07.
6518, 6530, 6532, 6536-07.
6672, 6674, 6688, 6692-07.
6696, 6700, 6704, 6722-07.
6724, 6734, 6736, 6740-07.
6742, 6758, 6782-07.
6786, 6788, 6796-07.
6798, 6806, 6816, 6826-07.
6828, 6830-07.

March 2, 1907.

DIRECT.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

Your decisions in the following Choctaw citizenship cases adverse to the applicants are hereby affirmed. Copies of Indian Office letters submitting your reports and recommending that the decisions be affirmed are enclosed:

Title of Case.	Title of Your Letter of Transmittal.
Richard Floyd (Freedman),	February 13, 1907.
Dave and Addie May Bailey (Freedmen),	February 13, 1907.
Ardshia and Larce McKinney (Freedmen),	February 16, 1907.
Nonie Cochran (Freedman),	February 13, 1907.
Mamey Cole and Liza Ellen Cole (Freedmen)	February 14, 1907.
E. C. Seale et al.,	February 14, 1907.
Hazell and Laveter Artry (Freedmen),	February 14, 1907.
Nellie J. Gideon et al.,	December 28, 1906.
Emma and Evaline Jackson,	February 14, 1907.
Ida Bell Bennett,	February 15, 1907.

Title of Case.	Date of Your Letter of Transmittal.
Memie Warner et al., (Freedman),	February 16, 1907.
Katie Simpson et al.,	February 16, 1907.
Raymond Henry Davis,	February 14, 1907.
Nancy T. Wilson et al, (Miss. Choc.),	February 12, 1907.
J. H. Hill and Newton Hill,	January 25, 1907.
Flora Lee Spring (Freedman),	February 12, 1907.
William Edgar and Oscar Jeffreys, (Miss. Choc.),	February 11, 1907.
Celestine Pierce (Freedman),	February 13, 1907.
Hisk Cubit (Freedman),	February 13, 1907.
Lucretia Hadnot et al.,	February 15, 1907.
Susan A. Baird,	February 15, 1907.
William Allen Gee (Miss. Choc.),	February 12, 1907.
Ella Williams (Freedman),	February 13, 1907.
Ida Colbert,	February 12, 1907.
Mable Everidge (Freedman),	February 15, 1907.
Duckie May Mabrie (Freedman),	February 15, 1907.
Cornelious and Vaneda Riddle (Freedmen),	February 15, 1907.
Jimmie Lee Alexander (Freedman),	February 13, 1907.
Fred M. Patterson et al.,	February 15, 1907.
Ed Childers et al., (Freedman),	February 12, 1907.
Lizzie Dennis (Freedman),	February 15, 1907.
Hellen D'Grace McMurty,	February 12, 1907.
Mable Bailey and Susa Anna Bailey (Freedmen),	February 13, 1907.
John Louis (Freedman),	February 15, 1907.
Amanda Mutchy, (Freedman),	February 15, 1907.
Matt Davis et al.,	February 15, 1907.
Marjie Record (Freedman),	February 15, 1907.
Laura Henry (Freedman),	February 14, 1907.
Ollie Webster (Freedman),	February 15, 1907.
James McCall,	February 15, 1907.
Nellie Elizabeth Kendrick (Freedman),	February 15, 1907.
Elwood Judy (Freedman),	February 15, 1907.
Oscar Brown (Freedman),	February 15, 1907.
Verna Verniti Bryant,	February 13, 1907.
Richard R. Perry (Freedman),	February 15, 1907.
James Luke Tubbee (Miss. Choc.),	February 20, 1907.
Elmina Berryman (Miss. Choc.),	February 20, 1907.
Ethel Rogers (Miss. Choc.),	February 20, 1907.

A copy hereof and all the papers in the above mentioned

-3-

cases have been sent to the Indian Office.

Respectfully,

Jesse E. Wilson,

Assistant Secretary.

48 inc. and 96 inc.
for Ind. Of.

W.C.P.
3/3/07.

946/371

Refer in reply to the following:

LAND

DEPARTMENT OF THE INTERIOR,

17175-1907.

office of indian affairs,

washington.

February 27, 1907.

C O P Y

The Honorable,

The Secretary of the Interior.

Sir:

There is enclosed record of proceedings in the matter of the application for the enrollment of Lucretia Hadnot, Sebrun Hadnot, Attemis Hadnot, Freddie Hadnot, and Bessie Hadnot, as citizens by blood of the Choctaw Nation, including the decision of the Commissioner to the Five Civilized Tribes, dated February 15, 1907, adverse to the applicants.

The decision of Commissioner Bixby has been examined, is found to be correct, and its approval is recommended.

Very respectfully,

C. F. Larrabee,

Acting Commissioner.

EBM-LC.

7-6080.

Muskogee, Indian Territory, April 11, 1907.

Lucretia Hadnot,

Muskogee, Indian Territory.

Dear Madam:

You are hereby advised that on March 2, 1907, the Secretary of the Interior affirmed the decision of this office of February 15, 1907, denying the application for your enrollment and for the enrollment of Sebrun Hadnot, Artemis Hadnot, Freddie Hadnot and Bessie Hadnot as citizens by blood of the Choctaw Nation.

Respectfully,

C. D. Rodgers.

Acting Commissioner.

7-6050.

Muskogee, Indian Territory, April 11, 1907.

George E. Powell,
Attorney at Law,
Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that on March 2, 1907, the Secretary of the Interior affirmed the decision of this office of February 15, 1907, denying the application for the enrollment of Locretia Hadnot, Sebrun Hadnot, Artemis Hadnot, Freddie Hadnot and Bessie Hadnot as citizens by blood of the Choctaw Nation.

Respectfully,

E. J. Rodgers
Acting Commissioner.

7-6050.

Muskogee, Indian Territory, April 11, 1907.

Wansfield, McMurray & Cornish,
Attorneys for the Choctaw and Chickasaw Nations,
South McAlester, Indian Territory.

Gentlemen:

You are hereby advised that on March 2, 1907, the Secretary of the Interior affirmed the decision of this office of February 15, 1906, denying the application for the enrollment of Lucretia Hadnot, Sebrun Hadnot, Artemis Hadnot, Freddie Hadnot and Bessie Hadnot as citizens by blood of the Choctaw Nation.

Respectfully,

Acting Commissioner.

Muskogee, Indian Territory, April 10, 1906.

George K. Powell,
Attorney at Law,
Muskogee, Indian Territory.

Dear Sir:

Your letter of March 28, 1906, addressed to the Secretary of the Interior has been by him referred to this office for consideration and appropriate action. Therein you refer to the case of Lucretia Hadnot and request that she be given an opportunity to establish her right as a citizen of the Choctaw Nation.

In reply to your letter you are advised that on January 20, 1906, Green Hadnot, husband of Lucretia Hadnot appeared at this office and attempted to establish that application had been made for the enrollment of Lucretia Hadnot as a citizen by blood of the Choctaw Nation within the time provided by the act of Congress approved July 1, 1902.

The testimony of such witnesses as were introduced in this case was heard at that time and the case remained open until March 24, 1906, when a decision was rendered in which it was held that no application had been made for the enrollment of Lucretia Hadnot as a citizen by blood of the Choctaw Nation within the time provided by the act of Congress approved July 1, 1902, and the Commissioner to the Five Civilized Tribes therefore declined to

G. K. P. #2

receive her application. On the same date the record in this case was transmitted to the Secretary of the Interior and you will be notified of Departmental action therein.

Respectfully,

Acting Commissioner.

Mem 194

Muskogee, Indian Territory, June 8, 1906.

Green Hadnot,

Muskogee, Indian Territory.

Dear Sir:

Your letter of May 10, 1906, addressed to the Secretary of the Interior has been by him referred to this office for consideration and appropriate action. Therein you ask for a rehearing in the matter of the application for the enrollment of your wife Lucretia Hadnot as a citizen by blood of the Choctaw Nation.

In reply to your letter you are advised that the record in the matter of the alleged application for the enrollment of your wife Lucretia Hadnot was on March 24, 1906, transmitted to the Secretary of the Interior and this office has not yet been advised of Departmental action in this case. If you desire to secure a rehearing in this case it will be necessary that formal motion therefor be filed with the Secretary of the Interior through this office.

Respectfully,

Commissioner.

Mem 194

Muskogee, Indian Territory, June 21, 1906.

Green Hadnot,

Muskogee, Indian Territory.

Dear Sir:

Your letter of May 24, 1906, addressed to the Secretary of the Interior has been by him referred to this office for consideration and appropriate action. Therein you refer to the right of your wife Lucretia Hadnot and her minor children to enrollment as citizens of the Choctaw Nation.

In reply you are advised that on March 24, 1906, the Commissioner to the Five Civilized Tribes rendered a decision declining to receive the application of Lucretia Hadnot for enrollment as a citizen by blood of the Choctaw Nation and on the same day the record in this case was forwarded the Secretary of the Interior. You will be notified of such action as is taken by the Department in this case.

Respectfully,

Commissioner.

Mem 194

Muskogee, Indian Territory, September 18, 1906.

Green Hadnot,
Room 15, Missouri Building,
Muskogee, Indian Territory.

Dear Sir:

Receipt is hereby acknowledged of your letter of September 12, 1906, asking what has been done with the application for the enrollment of your wife Lucretia Hadnot as a citizen of the Choctaw Nation.

In reply to your letter you are advised that no action has been taken by the Department upon the application for the enrollment of your wife Lucretia Hadnot as a citizen by blood of the Choctaw Nation.

Respectfully,

Commissioner.

4
Memo. 194.

Muskogee, Indian Territory, December 5, 1906.

Green Hadnot,

Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that before any further action can be taken in the matter of the application for the enrollment of your wife, Lucretia Hadnot, as a citizen by blood of the Choctaw Nation, it will be necessary for her to appear before the Commissioner to the Five Civilized Tribes at his office at Muskogee, Indian Territory, for the purpose of giving further testimony relative to her right to enrollment as such citizen. Said appearance should be made at the earliest possible date.

Respectfully,

Acting Commissioner.

CRV

DEPARTMENT OF THE INTERIOR,
WASHINGTON, November 23, 1906.

I.T.D.21274-1906
IRS

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

October 25, 1906 (Land 64719), the Indian Office transmitted the record in the matter of the application for the enrollment of Lucretia Hadnot and her minor children, Sebrun, Artemis, Bessie, and Freddie Hadnot, as citizens by blood of the Choctaw Nation, recommending the approval of your decision of March 24, 1906, refusing to receive said application, as the same had not been made within the time prescribed by law.

It appears that on September 16, 1905, the Department forwarded to you a communication from the principal applicant, requesting a hearing in her citizenship case. Under the ruling of the Department said letter is to be considered as an application for enrollment.

In view of section 1 of the act of April 26, 1906 (34 Stat., 137), the papers in the matter are returned for a readjudication.

A copy of Indian Office letter is inclosed.

Respectfully,
Thos Ryan
First Assistant Secretary

Through the Commissioner
of Indian Affairs.

5 inclosures.

Refer in reply to the following:

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,

WASHINGTON, October 24, 1906

Land
26936-1906
64719-1906

The Honorable,

The Secretary of the Interior.

Sir:

There is enclosed herewith a report from the Commissioner to the Five Civilized Tribes, dated March 24, 1906, transmitting the record in the case of Lucretia Hadnot, et al. as citizens of the Choctaw Nation.

On January 20, 1906, Green Hadnot made application for the enrollment of his wife, Lucretia Hadnot and her four minor children, Sebrun, Artemis, Bessie and Freddie Hadnot, as citizens by blood.

On March 24, 1906, the Commissioner held that the above named applicants were not entitled to enrollment.

The testimony of Green Hadnot shows that he was the husband of Lucretia Hadnot, nee Smith, and that in January 1902, he made application to the Commission to the Five Civilized Tribes at Muskogee, I.T. in company with one Sambo Barnett, for the enrollment of his wife and the four minor children above mentioned, Sebrun, Artemis, Bessie and Freddie Hadnot, as citizens by blood. He further said that in 1904 his wife, Lucretia Hadnot personally appeared before the Commission at Muskogee, Indian Territory, and made further application for herself as a citizen by blood/

Dave Curns, a janitor, in the employ of the Commission testified that in June 1902, while in the employ of the Commission he met the witness, Green Hadnot, at the offices of the Commission and was informed by him that he intended to put in an application for his rights."

2

Curns further said that he directed Hadnot to the Commission but did not know whether he made the application or not. It does not appear from the records in the possession of the Commissioner's Office that any application of any nature whatever was ever made to the Commission for the enrollment of Lueretia Hadnot or her four minor children.

Since the decision of the Commissioner on March 24, 1906, the applicants have filed a petition for a reopening of this case in which they set out that they should be given the benefit of Sec. 1 of the Act of Congress approved April 26, 1906 (34 Stats., 137) giving them the right to make application before the 1st day of December, 1906. Their petition shows, however, that they were given an opportunity on January 20, 1906, to establish that an application had been made in the year, 1904, but as they failed to establish this application and do not propose to present any evidence which was not presented at that time, there is no reason, in the opinion of this Office, for reopening the case and allowing a rehearing of the testimony herein, and therefore in view of the evidence set forth and of Sec 34 of the Act of Congress approved July 1, 1902 (32 Stats. 641) which provides that all applications for enrollment as citizens shall be made within ninety days after September 25, 1902, the date of the ratification of the Act, and also inasmuch as this case does not come within the provisions of Sec. 1 of the Act of April 26, 1906 (34 Stats., 137) which extends the time within which applications for enrollment to citizenship may be made to December 1, 1905, the decision of the Commissioner is recommended for approval.

Very respectfully,

C.F. Larrabee

Acting Commissioner

HFD RRG

Memo. 194.

Muskogee, Indian Territory, December 5, 1906.

George K. Powell,
Attorney at Law,
Muskogee, Indian Territory.

Dear Sir:

You are hereby notified that before any further action can be taken in the matter of the application for the enrollment of Lucretia Hadnot, wife of Green Hadnot of Muskogee, Indian Territory, as a citizen by blood of the Choctaw Nation, it will be necessary for her to appear before the Commissioner to the Five Civilized Tribes at his office at Muskogee, Indian Territory, for the purpose of giving further testimony relative to her right to enrollment as such citizen. Said appearance should be made at the earliest possible date.

Respectfully,

Acting Commissioner.

7-6080

Muskogee, Indian Territory, January 8, 1907

Chief Clerk,
Choctaw Land Office,
Atoka, Indian Territory.

Dear Sir:

For the information of your office there is inclosed herewith copy of Choctaw roll card No. 6080, Lucretia Hadnot et al. and you are advised to make duplicate roll card of same number in your possession conform to the information thereon.

Respectfully,

KB 3-8.

Commissioner.

7-6050

Muskogee, Indian Territory, January 8, 1907.

Chief Clerk,

Chickasaw Land Office,

Ardmore, Indian Territory.

Dear Sir:

For the information of your office there is inclosed herewith copy of Choctaw roll card No. 6050, Lucretia Hadnot et al. and you are advised to make duplicate roll card of same number in your possession conform to the information thereon.

Respectfully,

Commissioner.

EB 4-8.

946
371

REFER IN REPLY TO THE FOLLOWING:

LAND

DEPARTMENT OF THE INTERIOR,

17175-1907.

OFFICE OF INDIAN AFFAIRS,

WASHINGTON.

February 27, 1907.

C O P Y

The Honorable,

The Secretary of the Interior.

Sir:

There is enclosed record of proceedings in the matter of the application for the enrollment of Lucretia Hadnot, Sebrun Hadnot, Artemis Hadnot, Freddie Hadnot, and Bessie Hadnot, as citizens by blood of the Choctaw Nation, including the decision of the Commissioner to the Five Civilized Tribes, dated February 15, 1907, adverse to the applicants.

The decision of Commissioner Bixby has been examined, is found to be correct, and its approval is recommended.

Very respectfully,

G F Larrabee

Acting Commissioner.

EBM-LC..

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DEPARTMENT OF THE INTERIOR,
WASHINGTON.

O.K.

LRS

D.C. 12633-1907.

I.T.D. 6196, 6216, 6220, 6224-07.
6236, 6246, 6266, 6272-07.
6286, 6288, 6290, 6302-07.
6306, 6478, 6480, 6486-07.
6492, 6506, 6508, 6514-07.
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6696, 6700, 6704, 6722-07.
6724, 6734, 6736, 6740-07.
6742, 6758, 6782-07.
6786, 6788, 6796-07.
6798, 6806, 6816, 6826-07.
6828, 6830-07.

March 2, 1907.

DIRECT.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

Your decisions in the following Choctaw citizenship cases
adverse to the applicants are hereby affirmed. Copies of Indian
Office letters submitting your reports and recommending that
the decisions be affirmed are enclosed:

Title of Case.	Title of Your Letter of Transmittal.
Richard Floyd (Freedman),	February 13, 1907.
Dave and Addie May Bailey (Freedmen),	February 13, 1907.
Ardahia and Laree McKinney (Freedmen),	February 16, 1907.
Nonie Cochran (Freedman),	February 13, 1907.
Mamey Cole and Liza Ellen Cole (Freedmen)	February 14, 1907.
E. C. Seale et al.,	February 14, 1907.
Nazell and Laveter Artry (Freedmen),	February 14, 1907.
Nellie J. Gideon et al.,	December 28, 1906.
Emma and Evaline Jackson,	February 14, 1907.
Ida Bell Bennett,	February 16, 1907.

Title of Case.	Date of Your Letter of Transmittal.
Memie Warner et al., (Freedman),	February 16, 1907.
Katie Simpson et al.,	February 16, 1907.
Raymond Henry Davis,	February 14, 1907.
Nancy T. Wilson et al., (Miss. Choc.),	February 12, 1907.
J. H. Hill and Newton Hill,	January 25, 1907.
Flora Lee Spring (Freedman),	February 12, 1907.
William Edgar and Oscar Jeffreys, (Miss. Choc.),	February 11, 1907.
Celestine Pierce (Freedman),	February 13, 1907.
Hisk Cubit (Freedman),	February 13, 1907.
Lucretia Hadnot et al.,	February 15, 1907.
Susan A. Baird,	February 15, 1907.
William Allen Gee (Miss. Choc.),	February 12, 1907.
Ella Williams (Freedman),	February 13, 1907.
Ida Colbert,	February 12, 1907.
Mable Everidge (Freedman),	February 15, 1907.
Duckie May Mabrie (Freedman),	February 15, 1907.
Cornelious and Vaneda Riddle (Freedmen),	February 15, 1907.
Jimmie Lee Alexander (Freedman),	February 13, 1907.
Fred M. Patterson et al.,	February 15, 1907.
Ed Childers et al., (Freedman),	February 12, 1907.
Lizzie Dennis (Freedman),	February 15, 1907.
Hellen D'Grace McMurty,	February 12, 1907.
Mable Bailey and Susa Anna Bailey (Freedmen),	February 13, 1907.
John Louis (Freedman),	February 15, 1907.
Amanda Mutchy, (Freedman),	February 15, 1907.
Matt Davis et al.,	February 15, 1907.
Margie Record (Freedman),	February 15, 1907.
Laura Henry (Freedman),	February 14, 1907.
Ollie Webster (Freedman),	February 15, 1907.
James McCall,	February 15, 1907.
Hellie Elizabeth Kendrick (Freedman),	February 15, 1907.
Elwood Judy (Freedman),	February 15, 1907.
Oscar Brown (Freedman),	February 15, 1907.
Verna Verniti Bryant,	February 13, 1907.
Richard R. Perry (Freedman),	February 15, 1907.
James Luke Tubbee (Miss. Choc.),	February 20, 1907.
Elmina Berryman (Miss. Choc.),	February 20, 1907.
Ethel Rogers (Miss. Choc.),	February 20, 1907.

A copy hereof and all the papers in the above mentioned

-2-

cases have been sent to the Indian Office.

Respectfully,

Jesse E. Wilson,

Assistant Secretary.

48 inc. and 96 inc.
for Ind. Of.

W.C.F.
3/3/07.

4
Refer in reply to the following:

LAND

17175-1907.

946/371

DEPARTMENT OF THE INTERIOR,

office of indian affairs,

washington.

February 27, 1907.

C O P Y

The Honorable,

The Secretary of the Interior.

Sir:

There is enclosed record of proceedings in the matter of the application for the enrollment of Lucretia Hadnot, Sebrun Hadnot, Attamis Hadnot, Freddie Hadnot, and Bessie Hadnot, as citizens by blood of the Choctaw Nation, including the decision of the Commissioner to the Five Civilized Tribes, dated February 15, 1907, adverse to the applicants.

The decision of Commissioner Bixby has been examined, is found to be correct, and its approval is recommended.

Very respectfully,

C. F. Larrabee,

Acting Commissioner.

KEM-LC.

7-6050

Muskogee, Indian Territory, March 20, 1907.

Lucretia M. Smith,
Care of Green Hadnot,
Muskogee, Indian Territory.

Dear Madam:

Your letter of February 26, 1907, addressed to the Secretary of the Interior has been by him referred to this office for consideration and appropriate action. Therein you ask relative to your right to enrollment.

In reply to your letter you are advised that on February 15, 1907, the Commissioner to the Five Civilized Tribes rendered a decision denying the application for the enrollment of Lucretia Hadnot et al. as citizens of the Choctaw Nation and on the same date the record in this case was forwarded to the Secretary of the Interior. You will be notified of Departmental action therein.

Respectfully,

Commissioner.

Department of the Interior.

Commissioner to the Five Civilized Tribes.

MUSKOCOE, IND. TER.



Marcella Wade,

Muskogee, Indian Territory.

2-1-90

Choctaw 6051

Katie Simpson

Jan 2, 1907 Trans from Memo #268

Refused 2-16-07

6051

Memo.

Department of the Interior,
Commissioner to the Five Civilized Tribes.
Muskogee, Indian Territory, September 27, 1906.

In the matter of the alleged application for the enrollment of Katie Simpson as a citizen by blood of the Choctaw Nation.

KATIE SIMPSON, being first duly sworn, testified as follows:

Examination by the Commissioner:

- Q What is your name? A Katie Simpson.
Q How old are you? A I don't know, sir, exactly how old I am.
Q About how old? A About forty, I guess.
Q What is your post office? A My post office is Fort Smith, now.
Q What do you claim to be? A I claim to be part mixed with the colored and Choctaw.
Q Choctaw by blood? A Yes sir.
Q You claim rights as a Choctaw by blood? A Yes sir.
Q Don't claim freedmen rights? A No sir.
Q Have you ever appeared before the Commission or the Commissioner to the Five Civilized Tribes and made application for enrollment as a citizen by blood of the Choctaw Nation? A Have I appeared here?
Q Ever appeared in person? A I appeared here once with Mr. Neal.
Q Appeared where? A Here.
Q Muskogee? A Yes sir.
Q At this office? A Yes sir.
Q What did you do? A He didn't do anything only just come in and put my name down was all.
Q What time did you appear here? A I appeared here in September.
Q What year? A That was year before last.
Q 1904? A Yes sir, I think so; I got my letter at home now.

It does not appear from the records of this office that any formal application has ever been made for the enrollment of the applicant as a citizen by blood of the Choctaw Nation.

- Q Have you ever written this office about your right to enrollment as a citizen by blood of the Choctaw Nation? A Yes sir.
Q When was that first letter written? A I written the first letter after I went home.
Q When? A Shortly after I come here in September after I went back, and then I written again and they answered me I had put in too late, and then I saw Mr. Neal and Mr. Neal never said anything about it.
Q Who wrote that letter for you? A I got a lawyer to write it.
Q What lawyer? A Hynes.
Q Where does he live? A He lives in Fort Smith.
Q Whose name was signed to that letter? A Mine.
Q Did you read the letter? A I can't read.
Q Did he read it to you? A Yes sir.
Q What did he ask in that letter? A I done forgot now what all he did say in the letter.

- Q What did you write it for? A I wanted to see about my rights if I could get it or not, but I got a letter from Mr. Bixby.
- Q Where is that letter now? A It is at home.
- Q Why didn't you bring it? A I didn't think you would need it; I could have brought three or four of them.
- Q What is the date of the first letter you got from this office?
- A Well, I don't know; I could tell you if I had the letters here.
- Q Weren't all the letters you got from this office written in 1906, this year? A I don't know, I couldn't tell you; I got a letter here not very long ago; I got a letter when I come up to enroll the children; about a month ago I got another letter, and then I got another letter; I got three letters at home.
- Q When did you get those letters; didn't you get them this year?
- A I aint going to tell you that I have; I aint got no recollection about anything.
- Q When was it you went to see Mr. Hyner at Fort Smith?
- A When I went back the first time after Mr. London said he couldn't get my enrollment straightened out, I went to see him; that was after Christmas.
- Q What year? A This past gone Christmas.
- Q So it was last year you came here with Mr. Neal? A Yes sir.
- Q And you didn't write until after Christmas this past year?
- A No, I never written until then.
- Q That is the first letter you wrote? A Yes.
- Q So that would be the latter part of December, 1905, or the fore part of January, 1906, that you wrote the first letter, is that right? (No answer).
- Q Now, your statement you appeared here year before last was a mistake; you appeared here last fall just before Christmas?
- A I told you I didn't recollect it; it was in September I was here.
- Q Last September? A Yes sir.
- Q You appeared uphere last September? A This September a year ago.
- Q A year ago? A I appeared here with Mr. Neal last September.
- Q A year ago? A Yes, I proposed for it to be then.
- Q Was it last September you appeared here? A I don't know; it must have been.
- Q Last September, 1905? A Yes, I think it was.
- Q It wasn't 1904, but it was 1905, last September? A Yes.
- Q And the first letter you wrote to this office about your right to enrollment was in the latter part of December last year or the first part of January, 1906, this year? A I know I wrote after Christmas.
- Q After you claim you had been up here? A Yes sir.
- Q Had you ever written this office about your right to enrollment as a citizen by blood of the Choctaw Nation before last Christmas?
- A No sir, I didn't write.

The applicant offers in evidence a letter written by G. W. Vann of Rowland, I. T., to the Secretary of the Interior, requesting to be advised if Katie Stinson had enrolled at Muskogee, Indian Territory. Said letter bears the date of September 4, 1906.

It does not appear from the records in the possession of this office that any application of any nature whatsoever has ever been made for the enrollment of the applicant prior to December 1, 1905.

3.

Lenora B. Ashton, as stenographer to the Commissioner to the Five Civilized Tribes, on oath states that she reported the testimony in the above entitled cause on the 27th day of September, 1906, and that the above and foregoing transcript is a true and complete translation of her stenographic notes.

Lenora B. Ashton.

Subscribed and sworn to before me this 27th day of September, 1906.

Walter W. Chappell.
Notary Public.

It appearing from the record herein and from the records in the possession of this office that no application whatsoever has ever been made for the enrollment of Katie Simpson as a citizen by blood of the Choctaw Nation within the time limited by the provisions of the Act of Congress approved April 26, 1906 (34 Stats., 137), I am of the opinion that I am without authority to receive or consider any application for her enrollment as a citizen by blood of the Choctaw Nation, and I, therefore, decline to receive the same, and it is so ordered.



Commissioner.

Muskogee, Indian Territory,

SEP 27 1906

Ft. Smith, Ark. Sept. 4 1906

Sec'y of Interior,

Washington, D. C.

Dear Sir;-

I want to know whether the name of Katie Stanson nee Jones is enrolled on your books from Tusahoma I. T. It was enrolled by her father about the year of 1889 her father's name being Jimson Jones. Please let me hear from you and oblige,

Truly, G. W. Vann.

Rowland, I. T.

P. S. Her father was a full blooded Choctaw, and her mother was a slave of her fathers, who afterwards married her.

Commissioner to Five Tribes.
No. 40048-1906.
Received Sep. 15, 1906.

J.W.G .

copy

DEPARTMENT OF THE INTERIOR
WASHINGTON.

I.T.D. 11367-1906.

September 13, 1906.

L.R.S.

Mr. G.W. Vann,

Rowland, Ind. Ter.

Sir:

You are advised that your letter of the 4th inst. in which you ask if the name of Katie Stinson, nee Jones, is enrolled from Tuskoehoma, Indian Territory, has been referred to the Commissioner to the Five Civilized Tribes for appropriate action.

Respectfully,

Edward W. Dawson,

Chief Clerk.

Muskogee, Indian Territory, September 27, 1906.

The Honorable,

The Secretary of the Interior.

Sir:

There is transmitted herewith copy of the testimony taken at this office on September 27, 1906, in the matter of the alleged application for the enrollment of Katie Simpson as a citizen by blood of the Choctaw Nation, together with the order of the Commissioner to the Five Civilized Tribes of same date, declining to receive or consider said application.

Respectfully,

Commissioner.

MAH 1/27

Through the
Commissioner of Indian Affairs.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.
Muskogee, Indian Territory, September 28, 1905.

In the matter of the application for the enrollment of
Kate Simpson as a citizen by blood of the Choctaw Nation.

Tom W. Neal of Fort Smith, Arkansas, appearing as attorney
for the applicant.

Statement by Mr. Neal.

Kate Simpson appears before the Commissioner in
order to show that she is a Choctaw by blood, being
the offspring of a marriage between a Choctaw Indian
by blood and a negro woman.

By the Commissioner:

It is not claimed or insisted that this applicant has
ever, personally or by petition, or in any manner,
submitted any application for enrollment prior to
this date?

By Mr. Neal (after consulting with the applicant).
No sir.

Frances R. Lane upon oath states that as stenographer to the
Commissioner to the Five Civilized Tribes she correctly reported
the proceedings in the above entitled cause and that the fore-
going is a correct transcript thereof. *Frances R. Lane*

Subscribed and sworn to before me this September 28, 1905.

Edward Merriek
Notary Public.

It appearing from the foregoing record that the attorney
for the applicant, and the applicant herself, admits that no
application was ever made by her or in her behalf for enrollment
as a citizen by blood of the Choctaw Nation prior to her appear-
ance at this office on September 28, 1905, and there being no
authority vested in me for receiving original applications at
this time, I hereby decline to receive any application for the
enrollment of said Kate Simpson.



Commissioner.

Muskogee, Indian Territory,
September 28, 1905.

Memo. 268.
O.L.J.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of
Katie Simpson as a citizen by blood of the Choctaw Nation.

-----ooOoo-----

It appears from the record herein that on September 27, 1906, Katie Simpson appeared before the Commissioner to the Five Civilized Tribes and presented testimony relative to an application alleged to have been made for her enrollment as a citizen by blood of the Choctaw Nation within the time limited by the provisions of the Act of Congress approved April 26, 1906 (34 Stats., 137).

September 27, 1906, the Commissioner to the Five Civilized Tribes entered of record an order holding that inasmuch as it did not appear from the records in the possession of this office that any application of any nature whatsoever had ever been made for the enrollment of Katie Simpson as a citizen by blood of the Choctaw Nation within the time limited by the provisions of the Act of Congress above cited, he was without authority to receive or consider any application for her enrollment as a citizen by blood of the Choctaw Nation, and, therefore, declined to receive the same.

It appears, however, that on September 28, 1906, the applicant, Katie Simpson, appeared before the Commissioner to the Five Civilized Tribes at Muskogee, Indian Territory, for the purpose of showing that she was a Choctaw by blood.

I am of the opinion that inasmuch as the records in charge of the Commissioner to the Five Civilized Tribes show that application was made for the enrollment of Katie Simpson as a citizen by blood of the Choctaw Nation within the time limited by the provisions of the Act of Congress approved April 26, 1906 (34 Stats., 137), the same should now be determined upon its merits, and that the order of the Commissioner to the Five Civilized Tribes of September 27, 1906, declining to receive or consider said application should be rescinded, and it is so ordered.



Commissioner.

Muskogee, Indian Territory,

Shaw J. O'J.

M-151

Muskogee, Indian Territory, October 6, 1906.

The Commissioner
of Indian Affairs.

Sir:

September 27, 1906 there was transmitted to the Department through the Commissioner of Indian Affairs copy of the testimony taken at this office on that date in the latter of the alleged application for the enrollment of Katie Simpson as a citizen by blood of the Choctaw Nation together with order of the Commissioner to the Five Civilized Tribes of the same date declining to receive or consider said application.

I now have the honor to request the return of the record and order in this case for further consideration.

Respectfully,

Acting Commissioner.

23-1022

100

IN RE

Application for Enrollment of

MINOR CHILD

Act of Congress Approved

April 26, 1906.

Thompson Lindson

as a citizen of

Sweden

Nation.

Approved..... 190...

Commissioner.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

ENROLLMENT OF MINORS. ACT OF CONGRESS, APPROVED APRIL 26, 1906.

IN RE APPLICATION FOR ENROLLMENT, as a citizen of the Choctaw Nation,
of Samuel Simpson or Stinson born on the 20 day of March, 1890
(Here insert name of child)
Name of Father: James Simpson or Stinson a citizen of the U.S. Nation.
Name of Mother: Kate Simpson or Stinson a citizen of the Choctaw Nation. *affiant*
Tribal enrollment of father..... Tribal enrollment of mother.....
Postoffice: Fort Smith Ark

AFFIDAVIT OF MOTHER.

UNITED STATES OF AMERICA, Indian Territory,

Western District.

I, Kate Simpson or Stinson, on oath state that I am 35
years of age and a citizen by application of the Choctaw Nation;
that I am the lawful wife of James Simpson or Stinson, who is a citizen, by
of the U.S. Nation; that a Male child was
(Male or Female)
born to me on 20 day of March, 1890; that said child has been named
Samuel Simpson and was living March 4, 1906.

WITNESSES TO MARK:

[Must be Two
Witnesses]

Orceival Adams
Willis E. Adams

Subscribed and sworn to before me this 25 day of July, 1906.

Floyd Jones
Notary Public.

AFFIDAVIT OF ATTENDING PHYSICIAN OR MID-WIFE

UNITED STATES OF AMERICA, Indian Territory,

..... District.

I,, on oath state that I
attended on, wife of.....
on the day of; that there was born to her on said date a
(Male or Female)
child; that said child was living March 4, 1906, and is said to have been named.....

WITNESSES TO MARK:

[Must be Two
Witnesses]

Subscribed and sworn to before me this day of 1906.

Notary Public.

23-1022

199

IN RE

Application for Enrollment of

MINOR CHILD

Act of Congress Approved
April 26, 1906.

Lucile Simpson

as a citizen of

Choctaw

Nation.

Approved..... 190...

Commissioner.

**DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.**

ENROLLMENT OF MINORS. ACT OF CONGRESS, APPROVED APRIL 20, 1906.

IN RE APPLICATION FOR ENROLLMENT, as a citizen of the Choctaw Nation,
of Lucile Simpson born on the 22 day of March 1892
(Here insert name of child)
Name of Father: James Simpson a citizen of the U S Nation.
Name of Mother: Kate Simpson a citizen of the Choctaw Nation.
Tribal enrollment of father: Tribal enrollment of mother:
Postoffice: Fort Smith Ark

AFFIDAVIT OF MOTHER.

UNITED STATES OF AMERICA, Indian Territory,

Western District.

I, Kate Simpson, on oath state that I am 35
years of age and a citizen by Application of the Choctaw Nation;
that I am the lawful wife of James Simpson, who is a citizen, U S
of the U S Nation; that a female child was
born to me on 22 day of March 1892; that said child has been named
Lucile Simpson and was living March 4, 1906.

WITNESSES TO MARK:

(Must be Two Witnesses)

Orival Adams
Willis E. Adams

Subscribed and sworn to before me this 25 day of July 1906.

Floyd Hines
Notary Public.

AFFIDAVIT OF ATTENDING PHYSICIAN OR MID-WIFE.

UNITED STATES OF AMERICA, Indian Territory,

..... District.

I,, on oath state that I
attended on wife of
on the day of that there was born to her on said date a
child; that said child was living March 4, 1906, and is said to have been named
.....
.....

WITNESSES TO MARK:

(Must be Two Witnesses)

Subscribed and sworn to before me this day of 1906.

Notary Public.

23-1022

199

IN RE

Application for Enrollment of

MINOR CHILD

Act of Congress Approved
April 26, 1906.

William Simpson

as a citizen of

Choctaw Nation.

Approved..... 190...

Commissioner.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

ENROLLMENT OF MINORS. ACT OF CONGRESS, APPROVED APRIL 26, 1906.

IN RE APPLICATION FOR ENROLLMENT, as a citizen of the Choctaw Nation,
 of Cullins Simpson Stinson born on the 22 day of March, 1899.
(Here insert name of child)
 Name of Father: James Simpson a citizen of the U.S. Nation.
 Name of Mother: Kate Simpson a citizen of the Choctaw Nation. *applicant*
 Tribal enrollment of father..... Tribal enrollment of mother.....
 Postoffice Fort Smith Ark

AFFIDAVIT OF MOTHER.

UNITED STATES OF AMERICA, Indian Territory, }

Western District. }

I, Kate Simpson Stinson, on oath state that I am 35
 years of age and a citizen by applicant of the Choctaw Nation;
 that I am the lawful wife of James Simpson, who is a citizen, by
 of the U.S. Nation; that a male child was
[Male or Female]
 born to me on 22 day of March, 1899; that said child has been named
Cullins Simpson and was living March 4, 1906.
Kate Simpson
mark

WITNESSES TO MARK:

(Must be Two Witnesses)

Receival Adams
Willis E. Adams

Subscribed and sworn to before me this 23 day of July, 1906.

Floyd Harris

Notary Public.

AFFIDAVIT OF ATTENDING PHYSICIAN OR MID-WIFE.

UNITED STATES OF AMERICA, Indian Territory, }

..... District. }

I,, on oath state that I
 attended on, wife of.....
 on the day of 1906, that there was born to her on said date a
[Male or Female]
 child; that said child was living March 4, 1906, and is said to have been named.....

WITNESSES TO MARK:

(Must be Two Witnesses)

Subscribed and sworn to before me this day of 1906.

Notary Public.

Fort Smith, Ark.

8/6/1906.

Personally appeared before me Dr. J. G. Thomas, of Fort Smith, Ark., well known to me as a practising physician, who certifies that he is a practising physician, registered by the State Medical Board of Arkansas 1888 and states under oath that he was the family physician of James and Kate Stimson and attended Kate Stimson at the births of three children, namely, Samson Stimson, male born September, 2nd., 1891. (Record lost: but this is as near as memory and circumstances can place the date.)

Also William C. Stimson and Lucille Stimson- twins, male and female, born March, 20th. 1894.

J. G. Thomas.

Subscribed & sworn to before me this 7th day of August 1906

SEAL

Geo. H. Lyman
Notary Public.

My Commission
Expires Dec. 1, 1906.

Memo. 268.

Muskogee, Indian Territory, January 7, 1907.

Mansfield, McMurray & Cornish,
Attorneys for the Choctaw and Chickasaw Nations,
South McAlester, Indian Territory.

Gentlemen:

In the matter of the application for the enrollment of Katie Simpson as a citizen by blood of the Choctaw Nation, said applicant has this day been notified that it will be necessary for her to appear before the Commissioner to the Five Civilized Tribes at Muskogee, Indian Territory, on Tuesday, January 15, 1907, for the purpose of giving further testimony relative to her right to enrollment.

Respectfully,

Commissioner.

Memo. 268.

Muskogee, Indian Territory, January 7, 1907.

Tom W. Neal,
Attorney at Law,
Fort Smith, Arkansas.

Dear Sir:-

In the matter of the application for the enrollment of Katie Simpson as a citizen by blood of the Choctaw Nation, you are advised that the evidence heretofore submitted is insufficient to determine the right to said applicant to enrollment.

Inasmuch as the Act of Congress approved April 26, 1906 (34 Stats., 137), provides that no person can be enrolled after March 4, 1907, it will be necessary for said applicant to appear before the Commissioner to the Five Civilized Tribes at Muskogee, Indian Territory, on Tuesday, January 15, 1907, at nine o'clock A.M., for the purpose of giving further testimony relative to her right to enrollment as a citizen by blood of the Choctaw Nation.

Respectfully,

Commissioner.

Memo. 268.

Muskogee, Indian Territory, January 7, 1907.

Katie Simpson,

Fort Smith, Arkansas.

Dear Madam:-

In the matter of your application for enrollment as a citizen by blood of the Choctaw Nation, you are advised that the evidence heretofore submitted ^{is} ~~is~~ sufficient to determine your right to enrollment.

Inasmuch as the Act of Congress approved April 26, 1906 (34 Stats., 137), provides that no person can be enrolled after March 4, 1907, it will be necessary for you to appear before the Commissioner to the Five Civilized Tribes at Muskogee, Indian Territory, on Tuesday, January 15, 1907, at nine o'clock A.M., for the purpose of giving further testimony relative to your right to enrollment as a citizen by blood of the Choctaw Nation.

Respectfully,

Commissioner.

Memo. 268.

Muskogee, Indian Territory, December 5, 1906.

Tom W. Neal,
Attorney at Law,
Fort Smith, Arkansas.

Dear Sir:

You are hereby advised that before any further action can be taken in the matter of the application for the enrollment of Katie Simpson of Fort Smith, Arkansas, as a citizen by blood of the Choctaw Nation, it will be necessary for her to appear at the office of the Commissioner to the Five Civilized Tribes at Muskogee, Indian Territory, and give testimony relative to her right to enrollment as such citizen.

This matter should receive your immediate attention.

Respectfully,

Acting Commissioner.

Memo. 268.

Muskogee, Indian Territory, December 5, 1906.

Katie Simpson,

Fort Smith, Arkansas.

Dear Madam:

You are hereby notified that before any further action can be taken in the matter of your application for enrollment as a citizen by blood of the Choctaw Nation, it will be necessary for you to appear at the office of the Commissioner to the Five Civilized Tribes at Muskogee, Indian Territory, and give testimony relative to your right to enrollment as such citizen.

This matter should receive your immediate attention.

Respectfully,

Acting Commissioner.

7-6051
23-1022.

O.L.J.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of
Katie Simpson, et al., as citizens by blood of the Chectaw Nation.

D E C I S I O N.

It appears from the record herein that application was duly made for the enrollment of Katie Simpson as a citizen by blood of the Chectaw Nation within the time limited by the provisions of Section One of the Act of Congress approved April 26, 1906 (34 Stats., 137), and that application was made for the enrollment of Sampson Simpson, Lucile Simpson and Cullins Simpson as citizens by blood of said nation under the provisions of Section Two of said Act.

It further appears from the record herein that the applicant, Katie Simpson, was born in about the year 1866, and claims her right to enrollment as a citizen by blood of the Chectaw Nation by reason of being the daughter of one Jimson Jones, an alleged Chectaw by blood. The other applicants herein are the minor children of said Katie Simpson, and James Simpson, a non-citizen.

It does not appear from the record herein or from the records in the possession of this office that any of the applicants herein has ever been recognized or enrolled by the Chectaw tribal authorities as a member of the Chectaw tribe, or admitted to Chectaw citizenship by any duly constituted authority.

I am, therefore, of the opinion that the application for the enrollment of Katie Simpson as a citizen by blood of the Chectaw Nation should be denied, under the provisions of the Acts of Congress approved June 28, 1896 (30 Stats., 496), and July 1, 1902 (32 Stats., 641), and it is so ordered.

I am further of the opinion that the applications for the enrollment of Sampson Simpson, Lucile Simpson and Cullins Simpson as citizens by blood of the Chectaw Nation should be denied, under the provisions of the Act of Congress approved April 26, 1906 (34 Stats., 137), and it is so ordered.

Muskogee, Indian Territory,



Commissioner.

FEB 16 1907

7-6061.

COPY

Muskogee, Indian Territory, February 16, 1907.

James Simpson,
Fort Smith, Ark.

Dear Sir:

Inclosed herewith you will find a copy of the decision of the Commissioner to the Five Civilized Tribes, rendered February 16, 1907, denying the application for the enrollment of Katie Simpson, Sampson Simpson, Lucile Simpson and Gullins Simpson as citizens by blood of the Choctaw Nation.

The decision, with the record of proceedings in the case, is this day transmitted to the Secretary of the Interior for review. The final decision of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

SIGNED *Tams Bixby*

Commissioner.

Registered.
Incl. 7-6061.

7-6051

COPY

Washkgee, Indian Territory, February 16, 1907.

Tom W. Neal,
Attorney-at-law,
Fort Smith, Ark.

Dear Sir:

Inclosed herewith you will find a copy of the decision of the Commissioner to the Five Civilized Tribes, rendered February 16, 1907, denying the application for the enrollment of Katie Simpson, Sampson Simpson, Lucile Simpson and Cullins Simpson as citizens by blood of the Choctaw Nation.

The decision, with the record of proceedings in the case, is this day transmitted to the Secretary of the Interior for review. The final decision of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

SIGNED *Tams Bixby*

Commissioner.

Registered.
Incl. 7-6051.

43
7-6031

COPY

Washago, Indian Territory, February 16, 1907.

W. E. Abbot,
Attorney-at-law,
Fort Smith, Arkansas.

Dear Sir:

Inclosed herewith you will find a copy of the decision of the Commissioner to the Five Civilized Tribes, rendered February 16, 1907, denying the application for the enrollment of Katie Simpson, Sampson Simpson, Lucile Simpson and Cullins Simpson as citizens by blood of the Choctaw Nation.

The decision, with the record of proceedings in the case, is this day transmitted to the Secretary of the Interior for review. The final decision of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

SIGNED *Jams Dixby*

Commissioner.

Registered.
Incl. 7-6031.

7-6051.

COPY

Muskogee, Indian Territory, February 16, 1907.

Mansfield, McFurray & Cornish,

Attorneys for the Choctaw & Chickasaw Nations,
South McAlester, Indian Territory.

Gentlemen:

Inclosed herewith you will find a copy of the decision of the Commissioner to the Five Civilized Tribes, rendered February 16, 1907, denying the application for the enrollment of Katie Simpson, Sampson Simpson, Lucile Simpson and Gullins Simpson as citizens by blood of the Choctaw Nation.

The decision, with the record of proceedings in the case, is this day transmitted to the Secretary of the Interior for review. The final decision of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

SIGNED *Tams Dixby*

Commissioner.

Incl. 7-6051.

COPY

Muskogee, Indian Territory, February 16, 1907.

The Honorable,

The Secretary of the Interior.

Sir:

There is transmitted herewith record of proceedings in the matter of the application for the enrollment of Katie Simpson, Sampson Simpson, Lucile Simpson and Gullins Simpson as citizens by blood of the Choctaw Nation, including the decision of the Commissioner to the Five Civilized Tribes, dated February 16, 1907, denying said application.

Respectfully,

SIGNED *Jane Bixby*

Commissioner.

2 Incl. 7-4061.

Through the
Commissioner of Indian Affairs.

D. C. 12633-1907.

DEPARTMENT OF THE INTERIOR,

J.P.
C.V.

WASHINGTON. March 2, 1907.

SIR,

I. T. D.

6196, 6216, 6220, 6224-07.
6236, 6246, 6266, 6272-07.
6284, 6288, 6290, 6302-07.
6304, 6478, 6480, 6486-07.
6492, 6506, 6508, 6514-07.
6518, 6530, 6532, 6534-07.
6572, 6574, 6588, 6592-07.
6596, 6700, 6704, 6722-07.
6724, 6724, 6726, 6740-07.
6742, 6758, 6782-07.
6786, 6788, 6796-07.
6798, 6806, 6816, 6826-07.
6828, 6830-07.

DIRECT.

Commissioner to the Five Civilized Tribes,

Washoe, Indian Territory.

Sir:

Your decisions in the following Choctaw citizenship cases adverse to the applicants are hereby affirmed. Copies of Indian Office letters submitting your reports and recommending that the decisions be affirmed are inclosed:

Title of Case.

Title of Your
Letter of Transmittal.

Richard Floyd (Freedman)	February 13, 1907.
Dave and Addie May Bailey (Freedmen)	February 13, 1907.
Archie and Loret McKinney (Freedmen),	February 16, 1907.
Benie Cochran (Freedman),	February 13, 1907.
Nancy Cole and Lisa Ellen Cole (Freedmen),	February 14, 1907.
M. G. Seale, et al.,	February 14, 1907.
Hasell and Laveter Artry, (Freedmen),	February 14, 1907.
Nellie J. Gideon et al.,	December 28, 1906.
Rena and Evaline Jackson,	February 14, 1907.
Ida Bell Bennett,	February 18, 1907.

Title of Case.	Date of your letter of transmittal.
Nemie Varner, et al., (Freedman),	February 16, 1907.
Katie Simpson, et al.,	February 16, 1907.
Raymond Henry Davis,	February 14, 1907.
Nancy T. Wilson, et al. (Miss. Choc.),	February 12, 1907.
J. H. Hill and Newton Hill,	January 26, 1907.
Flora Lee Spring (Freedman)	February 12, 1907.
William Edgar and Oscar Jeffreys, (Miss. Choc.),	February 11, 1907.
Celestine Pierce (Freedman),	February 12, 1907.
Hisk Gubit (Freedman),	February 12, 1907.
Lucretia Hadnot, et al.,	February 12, 1907.
Susan A. Baird,	February 15, 1907.
William Allen Gee (Miss. Choc.),	February 12, 1907.
Ella Williams (Freedman),	February 12, 1907.
Ida Colbert,	February 12, 1907.
Mable Everidge (Freedman),	February 16, 1907.
Duckie May Mabrie (Freedman),	February 15, 1907.
Cornelius and Vaneda Riddle (Freedman),	February 15, 1907.
Jimie Lee Alexander (Freedman),	February 13, 1907.
Fred M. Patterson et al.,	February 15, 1907.
Ed Childers et al., (Freedman),	February 12, 1907.
Lizzie Dennis (Freedman)	February 12, 1907.
Mallen D'Grace McMurty,	February 12, 1907.
Mable Bailey and Rosa Anna Bailey (Freedman)	February 12, 1907.
John Louis (Freedman),	February 15, 1907.
Amanda Watohy, (Freedman),	February 15, 1907.
Watt Davis, et al.,	February 15, 1907.
Marjie Record (Freedman),	February 15, 1907.
Laura Henry (Freedman),	February 14, 1907.
Ollie Webster (Freedman),	February 15, 1907.
James McCall,	February 15, 1907.
Nellie Elizabeth Kendrick (Freedman),	February 15, 1907.
Elwood Judy (Freedman),	February 15, 1907.
Oscar Brown (Freedman),	February 15, 1907.
Verna Verniti Bryant,	February 15, 1907.
Richard R. Perry (Freedman),	February 15, 1907.
James Luke Tubbee (Miss. Choc.),	February 20, 1907.
Almina Berryman (Miss. Choc.)	February 20, 1907.
Ethal Rogers (Miss. Choc.),	February 20, 1907.

A copy hereof and all the papers in the above mentioned

-3-
cases have been sent to the Indian Office.

Respectfully,

James H. Wilson,

Assistant Secretary,
USP. S-3-07.

48 inc. and 96 inc.
for Ind. Of.

Refer in reply to the following:

COPY

Land.
17979-1907.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

February 26, 1907.

The Honorable,

The Secretary of the Interior.

Sir:

There is enclosed a report from Commissioner Bixby dated February 16, 1907, transmitting the record relative to the application of Katie Simpson, Lucile Simpson and Cullins Simpson for enrollment as citizens by blood of the Choctaw Nation, together with the Commissioner's decision of February 16, 1907, denying the application. The record has been examined and it is found that the Commissioner's decision is correct. Its approval is recommended.

Very respectfully,

C. F. Larrabee,

CAW-GH.

Acting Commissioner.

7-6051

Muskogee, Indian Territory, April 11, 1907.

James Simpson,

Fort Smith, Ark.

Dear Sir:

You are hereby advised that on March 2, 1907, the Secretary of the Interior affirmed the decision of this office of February 18, 1907, denying the application for the enrollment of Katie Simpson, Sampson Simpson, Lucile Simpson and Cullins Simpson as citizens by blood of the Choctaw Nation.

Respectfully,

Geo. D. Podgorn

Acting Commissioner.

7-6061

Muskogee, Indian Territory, April 11, 1907.

Tom W. Neal,
Attorney at Law,
Fort Smith, Ark.

Dear Sir:

You are hereby advised that on March 2, 1907, the Secretary of the Interior affirmed the Decision of this office of February 16, 1907, denying the application for the enrollment of Katie Simpson, Sampson Simpson, Lucile Simpson and Cullins Simpson as citizens by blood of the Choctaw Nation.

Respectfully,

Geo. D. Rodgers.

Acting Commissioner.

7-6051

Muskogee, Indian Territory, April 11, 1907.

W. R. Abbot,

Attorney at Law,

Port Smith, Arkansas.

Dear Sir:

You are hereby advised that on March 2, 1907, the Secretary of the Interior affirmed the decision of this office of February 16, 1907, denying the application for the enrollment of Katie Simpson, Sampson Simpson, Lucile Simpson and Cullins Simpson as citizens by blood of the Choctaw Nation.

Respectfully,

Geo. D. Rodgers.

Acting Commissioner.

7-6061

Muskogee, Indian Territory, April 11, 1907.

Wanfield, McMurray & Cornish,

Attorneys for the Choctaw and Chickasaw Nations,

South McAlester, Indian Territory.

Gentlemen:

You are hereby advised that on March 2, 1907, the Secretary of the Interior affirmed the decision of this office of February 16, 1907, denying the application for the enrollment of Katie Simpson, Sampson Simpson, Lucile Simpson and Cullins Simpson as citizens by blood of the Choctaw Nation.

Respectfully,

Geo. D. Rodgers,

Acting Commissioner.

30380-1908

Muskogee, Oklahoma, October 17, 1908.

Subject:
Claim of Kate
Stimson and Chil-
dren to allotment
of land as Choctaw
citizens.

The Honorable,

The Commissioner of Indian Affairs.

Sir:

I have the honor to acknowledge the receipt from the Department, for report, of a letter from Kate Stimson of Fort Smith, Arkansas, dated October 6, 1908 (File No. 68103), wherein she states that she recently appeared before the Commissioner and was denied the right to select allotments of land for herself and children.

Reporting thereon you are advised that it appears from the records of this office that application was made for the enrollment of Katie Simpson, who is undoubtedly the same person as Kate Stimson, as a citizen by blood of the Choctaw Nation within the time limited by the provisions of Section 1 of the Act of Congress approved April 26, 1906 (34 Stats., 137), and that application was made for the enrollment of her three children, Sampson, Lucile and Cullins

Simpson as citizens by blood of said nation under the provisions of Section 2 of said Act of Congress, which applications were denied by the Commissioner to the Five Civilized Tribes on February 16, 1907, for the reason that the applicants had never been recognized or enrolled by the Choctaw tribal authorities as members of the Choctaw tribe, or admitted to Choctaw Citizenship by any duly constituted authority.

You are further advised that the action of the Commissioner to the Five Civilized Tribes in denying the applications for the enrollment of the above mentioned persons as citizens by blood of the Choctaw Nation was approved by the Secretary of the Interior on March 2, 1907.

There is returned to you herewith the letter of said Katie Stinson of October 6, 1908.

Respectfully,

WHA(LAG 17-1)

Acting Commissioner.

Memo. 268

Muskogee, Indian Territory, October 6, 1906.

W. R. Abbot,

Fort Smith, Arkansas.

Dear Sir:

Receipt is hereby acknowledged of your letter of October 1, 1906, relative to the application for the enrollment of Kate Stimpson or Jane Stimpson as a citizen by blood of the Choctaw Nation and if there is anything necessary in this case you desire to procure it if possible.

In reply to your letter you are advised that Kate Simpson appeared at this office September 27, 1906 and her testimony was taken relative to an application alleged to have been made for her enrollment as a citizen by blood of the Choctaw Nation, but it is believed she is the Kate Stimpson referred to in your letter and when a decision is reached in this case you and the applicant will be notified of the action taken.

You are advised, however, that it does not appear that the name of this applicant is found on any of the tribal rolls of the Choctaw Nation in the possession of this office.

Respectfully,

Acting Commissioner.

Memo 151
Memo 268

Muskogee, Indian Territory, November 14, 1906.

Katie Stinson,
Port Smith, Arkansas.

Dear Madam:

Your letter of October 23, 1906, addressed to the Secretary of the Interior has been by him referred to this office for consideration and appropriate action. Therein you ask how to proceed in order to secure your enrollment.

In reply to your letter you are advised that the question of whether or not application was made for the enrollment of Katie Simpson within the time provided by law has not yet been finally determined.

It is believed that you are the person referred to as Katie Simpson and when a decision is reached in this case you will be notified of the action taken therein.

Respectfully,

Commissioner.

7-6051

Muskogee, Indian Territory, January 9, 1907.

Chief Clerk,
Choctaw Land Office,
Atoka, Indian Territory.

Dear Sir:

For the information of your office there is inclosed herewith copy of Choctaw roll card No. 6051, Katie Simpson, and you are directed to make duplicate Choctaw roll card of same number in your possession conform to the information thereon, and add the name of this person to your list of undetermined applicants for enrollment in the Choctaw Nation.

Respectfully,

EB 1-9.

Commissioner.

7-6051

Muskogee, Indian Territory, February 18, 1907.

W. R. Abbott,

Fort Smith, Arkansas.

Dear Sir:

Receipt is hereby acknowledged of your letter of January 21, 1907, in which you state that it was impossible for Kate Simpson to appear at this office in Muskogee when she was notified as she did not receive the notice until it was too late and you ask when she shall appear to offer further testimony in her case.

In reply to your letter you are advised that on February 16, 1907, the Commissioner to the Five Civilized Tribes rendered a decision refusing the application for the enrollment of Katie Simpson as a citizen by blood of the Choctaw Nation and on the same date the record in this case was forwarded to the Department.

Respectfully,

Commissioner.

D. C. 12533-1907.

DEPARTMENT OF THE INTERIOR,

J.P.
O.K.

LRS.

WASHINGTON. March 2, 1907.

I. T. D.

6196, 6216, 6220, 6224-07.
6236, 6246, 6256, 6272-07.
6286, 6296, 6300, 6302-07.
6304, 6478, 6480, 6486-07.
6492, 6506, 6508, 6514-07.
6518, 6530, 6532, 6534-07.
6572, 6474, 6588, 6592-07.
6596, 6700, 6704, 6722-07.
6724, 6734, 6736, 6740-07.
6742, 6758, 6762-07.
6766, 6782, 6796-07.
6798, 6806, 6816, 6826-07.
6828, 6830-07.

DIRECT.

Commissioner to the Five Civilized Tribes,
Waukegee, Indian Territory.

Sir:

Your decisions in the following Choctaw citizenship cases adverse to the applicants are hereby affirmed. Copies of Indian Office letters submitting your reports and recommending that the decisions be affirmed are inclosed:

Title of Case.	Title of Your Letter of Transmittal.
Richard Floyd (Freedman)	February 13, 1907.
Dave and Addie May Bailey (Freedmen)	February 13, 1907.
Archie and Larcie McKinney (Freedmen),	February 16, 1907.
Nemie Cochran (Freedman),	February 13, 1907.
Nancy Cole and Lisa Ellen Cole (Freedmen),	February 14, 1907.
E. C. Neale, et al.,	February 14, 1907.
Nasell and Laveter Artry, (Freedmen),	February 14, 1907.
Nellie J. Gideon et al.,	December 28, 1906.
Rosa and Evaline Jackson,	February 14, 1907.
Ida Bell Bennett,	February 18, 1907.

Title of Case.	Date of your letter of transmittal.
Henrie Warner, et al., (Freedmen),	February 16, 1907.
Katie Simpson, et al.,	February 14, 1907.
Raymond Henry Davis,	February 14, 1907.
Nancy T. Wilson, et al. (Miss. Choc.),	February 12, 1907.
J. H. Will and Newton Will,	January 28, 1907.
Fiera Lee Spring (Freedman)	February 12, 1907.
William Edgar and Oscar Jeffreys, (Miss. Choc.),	February 11, 1907.
Celestine Pierce (Freedman),	February 13, 1907.
Nick Cubit (Freedman),	February 13, 1907.
Lucretia Hadnot, et al.,	February 15, 1907.
Susan A. Baird,	February 15, 1907.
William Allen Gee (Miss. Choc.),	February 12, 1907.
Ella Williams (Freedman),	February 13, 1907.
Ida Colbert,	February 12, 1907.
Mable Everidge (Freedman),	February 15, 1907.
Duckie May Mabrie (Freedman),	February 15, 1907.
Cornelius and Vanada Riddle (Freedmen),	February 15, 1907.
Jimmie Lee Alexander (Freedman),	February 13, 1907.
Fred M. Patterson et al.,	February 15, 1907.
Ed Childers et al., (Freedmen),	February 12, 1907.
Lizzie Dennis (Freedman)	February 15, 1907.
Hellen D'Grace McMurty,	February 12, 1907.
Mable Failey and Rosa Anna Failey (Freedmen)	February 13, 1907.
John Louis (Freedman),	February 15, 1907.
Ananda Mutchy, (Freedman),	February 15, 1907.
Matt Davis, et al.,	February 15, 1907.
Marjie Record (Freedman),	February 15, 1907.
Laura Henry (Freedman),	February 14, 1907.
Ollie Webster (Freedman),	February 15, 1907.
James McCall,	February 15, 1907.
Nellie Elizabeth Kendrick (Freedman),	February 15, 1907.
Klweed Judy (Freedman),	February 15, 1907.
Oscar Brown (Freedman),	February 15, 1907.
Verna Verniti Bryant,	February 13, 1907.
Richard R. Perry (Freedman),	February 15, 1907.
James Luke Tubbee (Miss. Choc.),	February 20, 1907.
Kimina Berryman (Miss. Choc.),	February 20, 1907.
Ethel Rogers (Miss. Choc.),	February 20, 1907.

A copy hereof and all the papers in the above mentioned

-2-

cases have been sent to the Indian Office.

Respectfully,

James H. Wilson,

Assistant Secretary,
WOP. 2-3-07.

48 inc. and 96 inc.
for Ind. Of.

Referred in reply to the following:

COPY

Land.
17979-1907.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

February 28, 1907.

The Honorable,

The Secretary of the Interior.

Sir:

There is enclosed a report from Commissioner Bixby dated February 16, 1907, transmitting the record relative to the application of Katie Simpson, Lucile Simpson and Cullins Simpson for enrollment as citizens by blood of the Choctaw Nation, together with the Commissioner's decision of February 16, 1907, denying the application. The record has been examined and it is found that the Commissioner's decision is correct. Its approval is recommended.

Very respectfully,

C. F. Larrabee,

GAW-GH.

Acting Commissioner.

Muskogee, Oklahoma, April 13, 1909.

Mrs. Kate Simpson,
Rowland, Oklahoma.

Madam:

Your letter, in the form of an affidavit, dated at Ft. Smith, Arkansas, February 18, 1909, has been referred to this office by the Commissioner of Indian Affairs for reply. You request to be advised as to what rights, if any, you have as a citizen of the Choctaw Nation.

In reply you are informed it appears from the records of this office that you made application for enrollment as a citizen by blood of the Choctaw Nation within the time limited by the provisions of Section 1 of the Act of Congress approved April 26, 1906, (34 Stats., 137), and that application was made for the enrollment of your three children, Sampson, Lucile and Cullins Simpson as citizens by blood of said nation under the provisions of Section 2 of said Act of Congress, which applications were denied by the Commissioner to the Five Civilized Tribes on February 16, 1907, for the reason that you and your children had never been recognized or enrolled by the Choctaw tribal authorities as members of the Choctaw tribe, or admitted to Choctaw citizenship by any duly constituted authority.

The action of the Commissioner to the Five Civilized Tribes

K S 2

in denying the applications for the enrollment of yourself and children as citizens by blood of the Choctaw Nation was approved by the Secretary of the Interior on March 2, 1907.

You are further advised that under the provisions of the Act of Congress approved April 26, 1906, the rolls of citizenship of the Five Civilized Tribes were closed March 4, 1907, since which date the Secretary of the Interior has been without authority to approve the enrollment of any person as a citizen or freedman of any of said tribes.

Since the date last above mentioned there has been no further legislation affecting enrollment in the Five Civilized Tribes, nor have I any information as to the probability of the reopening of the rolls at any future date.

Respectfully,

Commissioner.

Choctaw 6052
Annie McGahey

Trans from Memo #16 12-17-06

6052

Department of the Interior.
Commission to the Five Civilized Tribes.
Atoka, Ind. Ter., November 21, 1902.

Original
Choctaw
Memorandum.

In the matter of the application of Annie McGahey for enrollment as an intermarried citizen of the Choctaw Nation.

Annie McGahey, being first duly sworn, upon her oath testifies as follows:

Examination by the Commission:

- Q What is your name? A Annie McGahey.
Q How old are you? A I will be eighteen in June next.
Q What is your post office address? A Cliff, Indian Territory.
Q Is that in the Chickasaw Nation? A Yes sir.
Q How long have you been a resident of the Chickasaw Nation? A Four years.
Q What is the name of your father? A Henry Lawless.
Q Is he living? A Yes sir.
Q White man? A Yes sir.
Q What is the name of your mother? A Nancy Lawless.
Q Is she a white woman? A Yes sir.
Q And is she living? A Yes sir.
Q Do you claim intermarried rights in the Choctaw Nation? A Yes sir.
Q What is the name of your Choctaw husband through whom you claim these rights? A Arthur McGahey.

The name of this applicant's husband, Arthur McGahey, appears upon the records of the Commission on Choctaw roll card, Field No. 4403.)

- Q Is he a recognized and enrolled citizen of the Choctaw Nation?
A Yes sir.
Q His rights have never been disputed? A No sir.
Q When were you married to Arthur McGahey? A September 10, 1902.

By the Commission:

The Commission is without authority to receive your application for enrollment as an intermarried citizen of the Choctaw Nation as you were married to your Choctaw husband after the passage of the act of Congress of July 1, 1902, known as the Choctaw-Chickasaw agreement.

Harry C. Risteen being first duly sworn upon his oath states: That as stenographer to the Commission to the Five Civilized Tribes he reported in full all proceedings had in the above entitled cause on the 21st day of November, 1902, and that the above and foregoing is a full, true and correct transcript of his stenographic notes of said

Amia 2000-000-2

proceedings on said date.

Harry Chistee

Subscribed and sworn to before me this 16 day of November, 1902.

J. J. Barnes
Notary Public.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

.....

In the matter of the application of Annie McGahey for enrollment as a citizen by intermarriage of the Choctaw Nation.

.....

From the record in this matter it appears that Annie McGahey appeared in person before the Commission at Atoka, Indian Territory, on November 21, 1902, and made application for enrollment as a citizen by intermarriage of the Choctaw Nation.

From her testimony given at that time it appears that she is 18 years of age, and has resided in the Chickasaw Nation for four years; that she is a white woman, having no Indian blood; that she claims the right to enrollment as a citizen by intermarriage of the Choctaw Nation by reason of her marriage, September 10, 1902, to Arthur McGahey, a recognized and enrolled citizen by blood of the Choctaw Nation.

By Section 34 of the Act of Congress approved July 1, 1902, (32 Stats. 641), it is provided that -

- " During the ninety days first following the date of the final ratification of this agreement, the Commission to the Five Civilized Tribes may receive applications for the enrollment only of persons whose names are on the tribal rolls, but who have not heretofore been enrolled by said Commission, commonly known as 'delinquents', and such intermarried white persons as may have married recognized citizens of the Choctaw and Chickasaw Nations in accordance with the tribal laws, customs and usages, on or before the date of the passage of this Act by Congress" - &c.

It clearly appearing from the applicant's own testimony that said Annie McGahey was not married to her Choctaw husband "on or before the date of the passage of this Act by Congress", it is the opinion of this Commission that it has no power or authority to receive or consider her said application, and that it should, therefore, decline to receive the same, and

IT IS SO ORDERED.

COMMISSION TO THE FIVE CIVILIZED TRIBES,


Chairman.

Commissioner.


Commissioner.

Waskogie, Indian Territory,

OCT 11 1904

1904.

Choctaw-M-16

COPY.

Muskogee, Indian Territory, October 14, 1904.

Annie McGahey,

Cliff, Indian Territory.

Dear Madam:

There is enclosed you herewith copy of the order of the Commission of October 11, 1904, refusing to receive or consider your application of November 21, 1902, for enrollment as an inter-married citizen of the Choctaw Nation.

You are further advised that the memorandum of proceedings had in this matter, together with the order of the Commission, has this day been transmitted to the Secretary of the Interior.

Respectfully,

(SIGNED) *Lamo Bixby*
Chairman.

Encl. 7-M-16.

Chectaw-M-16

COPY.

Muskogee, Indian Territory, October 14, 1904.

Wansfield, McMurray & Cornish,

Attorneys for Chectaw and Chickasaw Nations,

South McAlester, Indian Territory.

Gentlemen:

There is transmitted herewith copy of the order of the Commission of October 11, 1904, refusing to receive or consider the application of Annie McGahey for enrollment as an intermarried citizen of the Chectaw Nation.

Respectfully,

(SIGNED)

Tame Bixby

Chairman.

Encl. 7-M-16.

COPY.

Muskogee, Indian Territory, October 14, 1904.

The Honorable,

Secretary of the Interior,

Sir:

I have the honor to transmit herewith memorandum in the matter of the application of Annie McGahey for enrollment as an intermarried citizen of the Choctaw Nation, together with the order of the Commission of October 11, 1904, refusing to receive or consider said application.

Respectfully,

SIGNED *Tamm Dickey*

Chairman.

Encl. 7-M-16.

Through the
Commissioner of Indian Affairs.

DEPARTMENT OF THE INTERIOR
OFFICE OF INDIAN AFFAIRS
WASHINGTON

November 14, 1904.

Land.
74102-1904.

The Honorable,

The Secretary of the Interior.

Sir:

I enclose herewith, a report from the Commission to the Five Civilized Tribes, dated October 14, 1904, transmitting the record of the application for enrollment as a citizen by intermarriage of the Choctaw Nation by Annie McGahey.

October 11, the Commission decided adversely to the applicant.

The record shows that the applicant is a white woman having no Indian blood, and was married September 10, 1902, to Arthur McGahey, a recognized and enrolled citizen by blood of the Choctaw Nation.

In view of the record and of section 34 of the act of Congress approved July 1, 1902 (32 Stats., 641), the approval of the Commission's decision adverse to the applicant is recommended.

Very Respectfully,

A. C. Tonner,
Acting Commissioner.

H.M.M.
V.

D.C.
I.T.D.
LRS.

45643-1904,
11326-1904.

DEPARTMENT OF THE INTERIOR
WASHINGTON

Y.P.
THE
November 23, 1904.

Commission to the Five Civilized Tribes,
Muskogee, Indian Territory,
Gentlemen:

October 14, 1904, you transmitted the record in the matter of the application of Annie McGahey for enrollment as an intermarried citizen of the Choctaw Nation, including your decision of October 11, 1904, refusing to receive or consider said application.

Reporting in the matter November 4, 1904, the Acting Commissioner of Indian Affairs recommends that your decision be approved. A copy of his letter is inclosed.

The Department concurs in said recommendation, and your decision is hereby affirmed.

Respectfully,

1 inclosure.

Thos. Ryan,
Acting Secretary.

COPY.

Muskogee, Indian Territory, December 2, 1904.

Annie McGahay,

Cliff, Indian Territory,

Dear Madam:

You are hereby notified that the Secretary of the Interior under date of November 23, 1904, affirmed the decision of this Commission dated October 11, 1904, refusing to receive or consider your application for enrollment as a citizen by intermarriage of the Choctaw Nation.

Respectfully,

SIGNED

Tams Dixby

Chairman.

COPY:

Muskogee, Indian Territory, December 2, 1904.

Mansfield, McMurray & Cornish,

Attorneys for Choctaw and Chickasaw Nations,

South McAlester, Indian Territory,

Gentlemen:

You are hereby notified that the Secretary of the Interior under date of November 23, 1904, affirmed the decision of this Commission dated October 11, 1904, refusing to receive or consider the application for enrollment of Annie McNahey as a citizen by intermarriage of the Choctaw Nation.

Respectfully,

(SIGNED)

Tamie Dixie

Chairman.

Muskogee, Indian Territory, June 11, 1906.

The Honorable,

The Secretary of the Interior.

Sir:

On October 11, 1904, the Commission to the Five Civilized Tribes rendered a decision declining to receive the application of Annie McGahey for enrollment as an intermarried citizen of the Choctaw Nation for the reason that she was married to Arthur McGahey an enrolled citizen by blood of the Choctaw Nation on September 10, 1902, and no application was made for her enrollment until November 21, 1902. November 23, 1904, (I.T.D. 11326-1904) the Secretary of the Interior affirmed this decision.

I now have the honor to transmit herewith for Departmental consideration the petition filed by Apple & Franklin, Attorneys at Law, Muskogee, Indian Territory, for readjudication of this case.

Respectfully,

Mem. 15.

Commissioner.

Through the Commissioner
of Indian Affairs.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application
for the enrollment of Annie Banks
(formerly McGahey) as a citizen by
intermarriage of the Choctaw Nation.

P E T I T I O N
FOR READJUDICATION OF
CASE.

TO THE HONORABLE,
THE SECRETARY OF THE INTERIOR.

Your petitioner, Annie Banks, (formerly McGahey), respectively shows that she is a citizen by intermarriage of the Choctaw Nation, entitled to enrollment as such, for the following reasons, to-wit:

On September 10, 1902, your petitioner was lawfully married, under a license issued by the clerk of the United States Court in Indian Territory, to Arthur D. McGahey, a recognized and enrolled citizen by blood of the Choctaw Nation, whose name appears opposite No. 12276 upon the final roll of citizens by blood of the Choctaw Nation, as approved by the Secretary of the Interior.

On November 21, 1902, your petitioner appeared in person before the Commission to the Five Civilized Tribes at Atoka, Indian Territory, and made application for enrollment as a citizen by intermarriage of the Choctaw Nation, claiming such right by virtue of her marriage, as above set forth, to the said Arthur D. McGahey, and at that time and place gave her testimony before said Commission relative to her right to enrollment as such intermarried citizen.

The act of Congress approved July 1, 1902 (32 Stat., 641) entitled "An Act to ratify and confirm an agreement with the Choctaw and Chickasaw tribes of Indians, and for other purposes," which agreement was ratified by the Choctaws and Chickasaws at a special election held September 25, 1902, among other things provides that:

"28. The names of all persons living on the date of the final ratification of this agreement entitled to be enrolled as provided in section 27 hereof shall be placed upon the rolls made by said Commission; and no child born thereafter to a citizen or freedman and no person intermarried thereafter to a citizen shall be entitled to enrollment or to participate in the distribution of the tribal property of the Choctaws and Chickasaws.

"34. During the ninety days first following the date of the final ratification of this agreement the Commission to the Five Civilized Tribes may receive applications for enrollment only of those persons whose names are on the tribal rolls, but who have not heretofore been enrolled by said Commission, commonly known as 'delinquents' and such intermarried white persons as may have married recognized citizens of the Choctaw and Chickasaw Nations in accordance with the tribal laws, customs and usages on or before the date of the passage of this act by Congress, . . ."

Under the provisions of said section 28, above quoted, the Commission to the Five Civilized Tribes has laid down the rule in a number of cases, which rule has been approved by the Department, that, if a white person intermarried with a citizen by blood of the Choctaw or Chickasaw tribe in accordance with the laws, customs and usages of the Nation between July 1, 1902, and September 25, 1902, and made an application for enrollment to the Commission to the Five Civilized Tribes on or before September 25, 1902, such white person is entitled to enrollment as a citizen by intermarriage of the tribe of which his Indian spouse is a member.

But this applicant, your petitioner, did not apply to the

Commission to the Five Civilized Tribes for enrollment until November 21, 1902, and under the provisions of said section 34, above quoted, the Commission to the Five Civilized Tribes, on October 11, 1904, rendered a decision holding that said Commission was without authority to receive or consider the application for the enrollment of your petitioner as a citizen by intermarriage of the Choctaw Nation, which decision was affirmed by the Department on November 23, 1904.

There is no question but what your petitioner is entitled to enrollment, provided the Commissioner to the Five Civilized Tribes is now authorized to receive and consider the application made by her on November 21, 1902. The act of Congress approved April 26, 1906 (Public No. 129), among other things, provides:

"That after the approval of this Act no person shall be enrolled as a citizen or freedman of the Choctaw, Chickasaw, Cherokee, Creek or Seminole tribes of Indians in the Indian Territory, except as herein otherwise provided, unless application for enrollment was made prior to December first, nineteen hundred and five, and the records in charge of the Commissioner to the Five Civilized Tribes shall be conclusive evidence as to the fact of such application;..."

It therefore clearly and conclusively appears that, the application for the enrollment of your petitioner having been made prior to "December first, nineteen hundred and five", the Commissioner to the Five Civilized Tribes is authorized to consider and determine said application upon its merits; and that, under the provisions of the acts of Congress approved June 28, 1898 (30 Stat., 495) and July 1, 1902 (32 Stat., 641), your petitioner is rightfully entitled to enrollment as a citizen by intermarriage of the Choctaw Nation.

WHEREFORE, Your petitioner respectfully prays that the record in her case be remanded to the Commissioner to the Five Civilized Tribes and that said Commissioner be directed to enroll your petitioner as a citizen by intermarriage of the Choctaw Nation.

Annie Banks
Petitioner.

Apple & Franklin
Attorneys for the applicant

Indian Territory,
Southern District. SS.

I, Annie Banks (formerly McGahey), being first duly sworn, on oath states that she has read the foregoing petition by her subscribed, and that the facts stated therein are true and correct to the best of her knowledge and belief.

Annie Banks

(Seal)

Subscribed and sworn to before me this 30th day of May, 1906.

F. L. Kelley
Notary Public.

F.

Registry Receipt from P. M. Muskogee, I. T.

United States of America,

Indian Territory, SS.

Western District.

I, Wirt Franklin, one of the attorneys for applicant on oath state that the above and foregoing petition is a full, true and correct copy of a petition forwarded to Mansfield, McMurray & Cornish on the 2nd day of June 1906 by registered mail, as shown by the receipt of post master therefor which is hereto attached the same being number 3168.

Wirt Franklin

Subscribed and sworn to before me this 2nd day of June 1906.

M. G. Bailey

Notary Public

(SEAL)

DEPARTMENT OF THE INTERIOR.
Commissioner to the Five Civilized Tribes.

FILED

JUN 5 1906

Commissioner

COPY

Muskogee, Indian Territory, October 10, 1906.

The Honorable,

The Secretary of the Interior.

Sir:

October 11, 1904, the Commissioner to the Five Civilized Tribes rendered a decision declining to receive the application for enrollment of Annie McGahey as a citizen by intermarriage of the Choctaw Nation, and on October 14, 1904, the record was transmitted to the Secretary of the Interior.

November 23, 1904 (I.T.D. 11326-1904) this action was affirmed by the Secretary of the Interior.

June 11, 1906, a petition for readjudication of this case which was submitted by Apple & Franklin, attorneys at law, was forwarded the Department.

I now have the honor to transmit herewith a letter from S. A. Apple under date of September 20, 1906, requesting that action be taken in this case in conformity with the opinion of the Assistant Attorney General of August 10, 1906, in the case of Elsie J. Oakes.

Respectfully,

Tamm Dixey

Commissioner.

Through the

Commissioner of Indian Affairs.

MH
Enc. H-75

S. A. Apple,
Attorney at Law,
Ardmore, Indian Territory.

September 20, 1906.

The Honorable Secretary of the Interior.

Washington, District of Columbia.

Sir:

on November 21, 1902, Annie McGahey (now Annie Banks), appeared in person before the Commission to the Five Civilized Tribes at Atoka, Indian Territory, and made application for enrollment as a citizen by intermarriage of the Choctaw Nation, claiming such right by virtue of her marriage on September 10, 1902, under a license issued by the clerk of the United States Court in Indian Territory, to Arthur D. McGahey, a recognized and enrolled citizen by blood of the Choctaw Nation.

On October 11, 1904, the Commission to the Five Civilized Tribes rendered a decision herein holding that it was without authority to receive or consider said application, which decision was affirmed by the Department on November 23, 1904.

Under date of June 2, 1906, Apple & Franklin transmitted to the Commissioner to the Five Civilized Tribes, addressed to The Honorable, The Secretary of the Interior, petition of said Annie Banks (formerly McGahey) praying that her application be reopened and readjudicated, inasmuch as, under the provisions of the Act of Congress approved April 26, 1906 (Public No. 129) the Commissioner to the Five Civilized Tribes is authorized to receive, consider and determine said application upon its merits.

Since the filing of said petition the Assistant Attorney-General for the Department of the Interior has rendered his opinion upon the question involved in this case and in the case of Elsie J. Oakes, which case is in all respects analogous to the case of said Annie Banks (formerly McGahey), the opinion being dated August 10, 1906 and approved the same day (I.T.D. 11418-1904; 3738, 9464, 14010-1906), held that said Elsie J. Oakes' case is entitled to be reopened and readjudicated under the said Act of Congress approved April 26, 1906 (Public No. 129).

In view of Departmental action in the case of said Elsie J. Oakes I respectfully request that like action be taken by the Department in the case of Annie Banks (formerly McGahey), and at as early a date as practicable.

Very respectfully,

(signed) S. A. Apple,

Attorney for the applicant.

Through the Commissioner
to the Five Civilized Tribes.

D.C. 48540.

(COPY)

Refer in reply
to the following:

Land
S1017-1906.
S2384-1904.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

June 21, 1906.

The Honorable,

The Secretary of the Interior.

Sir:

Referring to Department letter of November 23, 1904, I.T.D. 11326, there is inclosed a report from the Commissioner to the Five Civilized Tribes, transmitting petition for re-adjudication in the matter of the application of Annie McSahey for enrollment as an intermarried citizen of the Choctaw Nation. The petition was filed on behalf of the applicant by Apple & Franklin, Attorneys at Law, Muskogee, Indian Territory. The record in the case is also enclosed.

Very respectfully,

C. F. Larrabee,

Acting Commissioner.

SAW-GH.

D.C. 48540.

(COPY-DeB)

DEPARTMENT OF THE INTERIOR. T.P.

WASHINGTON.

October 31, 1906.

I.T.D. 11222-1906.

21448-

L.RH.

Commissioner to the Five Civilized Tribes,

Muskogee, Indian Territory.

Sir:

Referring to your letters of June 11 and October 10, 1906, relative to the application of Annie McGahey, to be enrolled as an intermarried citizen of the Choctaw Nation, you are advised that in view of section 1 of the act of April 26, 1906 (34 Stats., 137), the decision of the Department of November 23, 1904, affirming the decision of the Commission to the Five Civilized Tribes refusing to receive the application, is hereby rescinded and you are authorized to readjudicate the case. The testimony in the matter, and argument, received with your letter of June 11th, and letter of the attorneys for the claimant, received with your letter of October 10th, are inclosed, together with copies of Indian Office letters of June 21 (Land 51017) and October 24, 1906 (Land 90366).

Respectfully,

M. A. Hitchcock,
Secretary.

Through the Commissioner
of Indian Affairs.

5 inclosures.

D.C. 48540.

(COPY)

Refer in reply to
the following:

DEPARTMENT OF THE INTERIOR,

Land.
90386-1906.

OFFICE OF INDIAN AFFAIRS,

WASHINGTON.

October 24, 1906.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to invite your attention to the enclosed letter of the 10th instant from Tams Bixby, Commissioner to the Five Civilized Tribes, who says that on October 11, 1904, the Commission to the Five Civilized Tribes rendered a decision declining to receive the application for enrollment of Annie McGahey as a citizen by intermarriage of the Choctaw Nation, and that on October 14, 1904, the record was transmitted to the Department. On November 23, 1904, this action was affirmed by the Department (I.T.D. 11326-1904).

Mr. Bixby reports that on June 11, 1906, a petition for readjudication of the case which was submitted by Apple & Franklin, the attorney at law, was forwarded to the Department. He now transmits a letter from S. A. Apple, under date of September 20, 1906, requesting that action be taken in this case in conformity with the opinion of the Assistant Attorney General of August 10, 1906, in the case of Elsie J. Cakes.

The record to which the Commissioner refers was forwarded by the Office to the Department on June 21, 1906, and it has not been notified of any action having been taken thereon.

Very respectfully,

G. F. Larrabee,

Acting Commissioner.

WGH-Y.

Memo. 16.

Muskogee, Indian Territory, November 24, 1906.

Annie McGahey,

Cliff, Indian Territory.

Dear Madam:

The Department on October 31, 1906 (I.T.D. 11222, 21448-1906), rescinded its action of November 23, 1904, affirming the decision of the Commission to the Five Civilized Tribes refusing to receive or consider the application for your enrollment as a citizen by intermarriage of the Choctaw Nation, and authorized this office to readjudicate your case in view of Section One of the Act of Congress approved April 26, 1906 (34 Stats., 137).

Inasmuch as it appears that the evidence is insufficient to determine your right to enrollment as a citizen by intermarriage of the Choctaw Nation, it will be necessary for you to appear before the Commissioner to the Five Civilized Tribes at his office at Muskogee, Indian Territory, on Monday, December 3, 1906, at nine o'clock A. M., for the purpose of giving further testimony relative to your right to enrollment as such citizen. Evidence of your marriage to your Choctaw husband should also be filed.

Respectfully,

Commissioner.

4
Memo. 16.

Muskogee, Indian Territory, November 24, 1906.

S. A. Apple,
Attorney at Law,
Ardmore, Indian Territory.

Dear Sir:

The Department on October 31, 1906 (I.T.D. 11222, 21448-1906), rescinded its action of November 23, 1904, affirming the decision of the Commission to the Five Civilized Tribes refusing to receive or consider the application for the enrollment of Annie McGahey as a citizen by intermarriage of the Choctaw Nation, and authorized this office to readjudicate said case in view of Section One of the Act of Congress approved April 26, 1906 (34 Stats., 137).

Inasmuch as it appears that the evidence is insufficient to determine her right to enrollment as a citizen by intermarriage of the Choctaw Nation, it will be necessary for her to appear before the Commissioner to the Five Civilized Tribes at his office at Muskogee, Indian Territory, on Monday, December 3, 1906, at nine o'clock A. M., for the purpose of giving further testimony relative to her right to enrollment as such citizen. Evidence of her marriage to her Choctaw husband should also be filed.

Respectfully,

Commissioner.

Memo. 16.

Muskogee, Indian Territory, November 24, 1906.

Mansfield, McMurray & Cornish,

Attorneys for the Choctaw and Chickasaw Nations,
South McAlester, Indian Territory.

Gentlemen:

The Department on October 31, 1906 (I.T.D. 11222, 21448-1906, rescinded its action of November 23, 1904, affirming the decision of the Commission to the Five Civilized Tribes refusing to receive or consider the application for the enrollment of Annie McGahey as a citizen by intermarriage of the Choctaw Nation, and authorized this office to readjudicate said case in view of Section One of the Act of Congress approved April 26, 1906 (34 Stats., 137).

Inasmuch as it appears that the evidence is insufficient to determine her rights to enrollment as a citizen by intermarriage of the Choctaw Nation, it will be necessary for her to appear before the Commissioner to the Five Civilized Tribes at his office at Muskogee, Indian Territory, on Monday, December 3, 1906, at nine o'clock A. M., for the purpose of giving further testimony relative to her right to enrollment as such citizen.

Respectfully,

Commissioner.

Memo. 16.

Department of the Interior,
Commissioner to the Five Civilized Tribes.
Muskogee, Indian Territory, December 3, 1906.

In the matter of the application for the enrollment of
Annie McGahey as a citizen by intermarriage of the Choctaw Nation.

APPEARANCES: S. A. Apple, attorney at law, Ardmore, Indian Territory, appears on behalf of the applicant.
No appearance on behalf of the Choctaw and Chickasaw Nations.

ANNIE BANKS, being first duly sworn, testified as follows:

Examination by the Commissioner:

Q What is your name? A Annie Banks.
Q Was Annie McGahey? A Yes sir.
Q When were you married to Mr. Banks? A October 25, 1905.
Q How old are you? A Twenty-one.
Q What is your post office address? A Cliff.
Q Through whom do you claim your right to enrollment as a citizen by intermarriage of the Choctaw Nation? A Arthur McGahey.
Q What is he? A Choctaw.
Q Choctaw by blood? A Yes sir.
Q When were you married to him? A 10th of September, 1902.
Q Where were you living at that time? A Mile northwest of Cliff.
Q In the Choctaw Nation? A No, in the Chickasaw Nation.
Q Where was Arthur McGahey living at that time? A Near Cliff.
Q Also in the Chickasaw Nation was he? A Sir?
Q Was he also living in the Chickasaw Nation? A Yes sir.
Q Who married you? A I forget. Harris or Harrison one.
Q What position did he occupy? A Where did he live?
Q No, was he a preacher or clerk or what? A Yes sir, preacher.
Q Well, after your marriage where did you live? A Lived near Cliff.
Q How long did you live together as husband and wife? A About a year and a half.
Q Were you ever married before you married Arthur McGahey?
A No sir.
Q Had he ever been married before he married you? A No sir.
Q Are you a white woman? A Yes sir.
Q What is the name of your father? A Henry Lawless.
Q What is the name of your mother? A Nancy Lawless.
Q Both white people and citizens of the United States? A Yes sir.

Q What was the name of Arthur McNahey's father? A I don't know.
Q What was the name of his mother? A Martha. His father was
dead when we married. I don't know his name.

Arthur D. McNahey, through whom the applicant claims
her intermarried rights, is identified upon Choctaw Field
Card No. 4403, opposite No. 12276, approved by the Secretary
of the Interior March 6, 1903.

(Witness excused.)

Lenora B. Ashton, as stenographer to the Commissioner to the
Five Civilized Tribes, on oath states that she reported the testi-
mony in the above entitled cause on the 3rd day of December, 1906,
and that the above and foregoing transcript is a true and complete
translation of her stenographic notes.

Lenora B. Ashton.

Subscribed and sworn to before me this 3rd day of December, 1906.

Chas. H. Keaton
Notary Public.

COPY.

MARRIAGE LICENSE.

No. 1229.

UNITED STATES OF AMERICA,
INDIAN TERRITORY,
SOUTHERN DISTRICT.

} To Any Person Authorized by Law
ss: to Solemnize Marriage, Greeting:

You are hereby commanded to solemnize the Rite and publish the Banns of Matrimony between Mr. Arthur McGahsee of Madill in the Indian Territory, aged 21 years, and M___ Annie Lawlis of Cliff in the Indian Territory, aged 17 years, according to law; and do you officially sign and return this License to the parties therein named.

WITNESS my hand and official Seal, this 10th day of Sept.

A. D. 1902.

(Signed) C. M. Campbell,

Clerk of the United States Court.

(SEAL)

CERTIFICATE OF MARRIAGE.

UNITED STATES OF AMERICA,
INDIAN TERRITORY,
SOUTHERN DISTRICT.

} ss: I, A. V. Harris, do hereby

certify that on the 10th day of September, A. D. 1902, I did duly and according to law, as commanded in the foregoing License, solemnize the Rite and publish the Banns of Matrimony between the parties therein named.

WITNESS my hand this 10 day of September, A. D. 1902.

My credentials are recorded in the office of the Clerk of the United States Court, Indian Territory, Southern District, at Ardmore, Book B, Page 21.

(Signed) A. V. Harris,

a Elder, M. P. C.

(2)

CERTIFICATE OF RECORD OF MARRIAGE.

United States of America,)
Indian Territory,) sot.
Southern District.)

I, C. M. CAMPBELL, Clerk of the United States Court, in the Territory and District aforesaid DO HEREBY CERTIFY, that the License for and Certificate of Marriage of Mr. Arthur McGahoe and M____ Annie Lawlis were filed in my office in said Territory and District the 12th day of Sept. A. D., 1902, and duly recorded in Book F of Marriage Record, Page 496.

WITNESS my hand and Seal of said Court, at Ardmore, this 12th day of September, A. D. 1902.

(Signed) C. M. Campbell,

(SEAL)

CLERK.

Indorsed:

Filed Sep. 12, 1902, 8 AM.
C. M. Campbell, Clerk.
Southern Dist. Ind. Ter.

Department of the Interior,
Commission to the Five Civilized Tribes.
Filed Apr. 24, 1905.
Tams Bixby, Chairman.

Lenora B. Ashton, on oath states that she made the above and foregoing copy, and that the same is a true and complete copy of the original Marriage License and Certificate between Arthur McGahoe and Annie Lawlis, as filed with the Commissioner to the Five Civilized Tribes.

Lenora B. Ashton
Subscribed and sworn to before me this 3rd day of December, 1906.

Charles Webster
Notary Public.

1

Memo. 16.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of
Annie McGahey as a citizen by intermarriage of the Choctaw Nation.

-----ooOoo-----

It appears from the record herein that on November 21, 1902, Annie McGahey appeared before the Commission to the Five Civilized Tribes and made application for enrollment as a citizen by intermarriage of the Choctaw Nation.

October 11, 1904, the Commission to the Five Civilized Tribes rendered its decision therein, refusing to receive or consider any application for the enrollment of said applicant as a citizen by intermarriage of the Choctaw Nation, for the reason that said applicant was not married to her Choctaw husband on or before the date of the passage of the Act of Congress approved July 1, 1902 (32 Stats., 641), as provided in Section 34 thereof. Said decision was affirmed by the Department November 23, 1904.

The Department on October 31, 1906 (I.T.D. 11222, 21448-1906), rescinded its action of November 23, 1904, and remanded said case for readjudication under the provisions of Section One of the Act of Congress approved April 26, 1906 (34 Stats., 137).

I am of the opinion that inasmuch as the record herein shows that application was made for the enrollment of Annie McGahey as a citizen by intermarriage of the Choctaw Nation within the time limited by the provisions of the Act of Congress approved April 26, 1906 (34 Stats., 137), the same should now be determined upon its merits, and it is so ordered.


Commissioner.

Muskogee, Indian Territory,

Dec 17-1906.

Memo. 16.
O.L.J.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

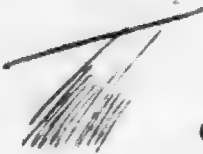
In the matter of the application for the enrollment of
Annie McGahey as a citizen by intermarriage of the Choctaw Nation.

D E C I S I O N.

It appears from the record herein that application was
duly made for the enrollment of Annie McGahey as a citizen by inter-
marriage of the Choctaw Nation within the time limited by the pro-
visions of the Act of Congress approved April 26, 1906 (34 Stats.,
137).

It further appears from the record herein that on Septem-
ber 10, 1902, the applicant, Annie McGahey, was lawfully married to
Arthur D. McGahey, a recognized and enrolled citizen by blood of the
Choctaw Nation, whose name appears as number 12276 upon the final
roll of citizens by blood of the Choctaw Nation approved by the
Secretary of the Interior March 6, 1903; that at the time of said
marriage both persons above mentioned were residents in good faith
of the Choctaw Nation; and that they lived together continuously
as husband and wife in said nation from the date of said marriage
up to and including September 25, 1902.

I am, therefore, of the opinion that Annie McGahey should
be enrolled as a citizen by intermarriage of the Choctaw Nation,
under the provisions of the Acts of Congress approved June 28, 1898
(30 Stats., 495), and July 1, 1902 (32 Stats., 641), and it is so
ordered.



Commissioner.

Muskogee, Indian Territory,

1903

Memo. 16

CCM.

Muskogee, Indian Territory, December 26, 1906.

Annie McGahey,

Cliff, Indian Territory.

Dear Madam:

Inclosed herewith you will find a copy of the decision of the Commissioner to the Five Civilized Tribes, rendered December 26, 1906, granting your application for enrollment as a citizen by intermarriage of the Choctaw Nation.

The attorneys for the Choctaw and Chickasaw Nations have been furnished a copy of this decision and have been allowed fifteen days from the date of this notice within which to file protest against your enrollment. If at the expiration of that time no protest has been filed, the name of Annie McGahey will be placed upon the final roll of citizens by intermarriage of the Choctaw Nation to be submitted to the Secretary of the Interior for his approval.

Respectfully,

Registered.

Incl. Memo. 16.

Wm. C. Bell
Acting Commissioner.

Memo. 16

COPY.

Muskegee, Indian Territory, December 26, 1906.

S. A. Apple,
Attorney at Law,
Ardmore, Indian Territory.

Dear Sir:-

You are hereby notified that the Commissioner to the Five Civilized Tribes, on December 26, 1906, rendered his decision granting the application for the enrollment of Annie McGahey as a citizen by intermarriage of the Choctaw Nation.

The attorneys for the Choctaw and Chickasaw Nations have been furnished a copy of this decision and have been allowed fifteen days from the date of this notice within which to file protest against her enrollment. If at the expiration of that time no protest has been filed, the name of Annie McGahey will be placed upon the final roll of citizens by intermarriage of the Choctaw Nation to be submitted to the Secretary of the Interior for his approval.

Respectfully,

Registered.

Wm. O. Beall.
Acting Commissioner.

Memo. 16

copy.

Muskogee, Indian Territory, December 26, 1906.

Mansfield, McMurray & Cornish,

Attorneys for Choctaw and Chickasaw Nations,

South McAlester, Indian Territory.

Gentlemen:

Inclosed herewith you will find a copy of the decision of the Commissioner to the Five Civilized Tribes of December 26, 1906, granting the application for the enrollment of Annie McGahey as a citizen by intermarriage of the Choctaw Nation.

You are hereby advised that you will be allowed fifteen days from the date of this notice within which to file such protest as you desire to make against her enrollment. If at the expiration of that time no protest has been filed, the name of Annie McGahey will be placed upon the final roll of citizens by intermarriage of the Choctaw Nation to be submitted to the Secretary of the Interior for his approval.

Respectfully,

Registered.

Incl. Memo. 16.

Wm. C. Ball
Acting Commissioner.

COPY.

Muskogee, Indian Territory, December 28, 1906.

The Honorable,

The Secretary of the Interior.

Sir:

October 11, 1904, the Commission to the Five Civilized Tribes rendered a decision declining to receive the application of Annie McGahey for enrollment as a citizen by intermarriage of the Choctaw Nation, and on October 14, 1906, the record in this case, together with a copy of said decision, was forwarded the Secretary of the Interior. November 23, 1904, (I.T.D. 11326-1904), this action was approved by the Department.

June 11, 1906, a petition for readjudication of this case submitted by Apple & Franklin, attorneys for the applicant, was forwarded the Department.

October 31, 1906 (I.T.D. 21448-1906), the Department rescinded its action of November 23, 1904, and directed that the application of Annie McGahey for enrollment as an intermarried citizen of the Choctaw Nation, be readjudicated under the provisions of the Act of Congress approved April 26, 1906.

There is now transmitted herewith additional proceedings in this case, together with the order of December 17, 1906, rescinding the action of the Commission to the Five Civilized Tribes of

Secretary 2.

October 11, 1904, and decision of December 26, 1906, granting the application for the enrollment of Annie McGahey as a citizen by intermarriage of the Choctaw Nation.

The applicant, her attorneys of record, and the attorneys for the Choctaw and Chickasaw Nations have been notified of this action and have been advised that if no protest is filed to this decision within fifteen days from that date, the name of Annie McGahey will be placed upon a schedule of citizens by intermarriage of the Choctaw Nation to be prepared for forwarding the Secretary of the Interior.

Respectfully,

SIGNED

Wm. O. Beall.
Acting Commissioner.

Through the
Commissioner of Indian Affairs.

Memo. 16.

DEPARTMENT OF THE INTERIOR,

JFJR

WASHINGTON.

LLB

I.T.D. 4010-1907
D.C. 10921-1907.

February 21, 1907.

LRS

Direct.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

December 28, 1906, the Acting Commissioner transmitted the record in the matter of the application for the enrollment of Annie McGahey as a citizen by intermarriage of the Choctaw Nation, including your decision dated December 26, 1906, granting said application.

Reporting February 16, 1907 (Land 113584-1906), the Indian Office recommended that your decision be approved. A copy of its letter is inclosed.

The Department concurs in said recommendation, and your decision is hereby affirmed.

The papers in the case and a carbon copy hereof have been sent to the Indian Office.

Respectfully,

Thos. Ryan,

1 inc. and 2 to Ind. Of.

First Assistant Secretary.

A.E.Mc.
2-23-07.

Refer in reply to the following:

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

Land.
113564-1906

(COPY)

February 16, 1907.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to transmit herewith a communication from the Acting Commissioner to the Five Civilized Tribes, dated December 28, 1906, enclosing the record of proceedings had in the matter of the application of Annie McGahey for enrollment as a citizen by intermarriage of the Choctaw Nation.

The Commission to the Five Civilized Tribes rendered a decision in this matter on October 11, 1904, declining to receive the application of Annie McGahey for enrollment as an intermarried citizen of the Choctaw Nation. The action of the Commission was approved by the Department November 23, 1904 (I.T.D. 11326-1904). A petition for re-adjudication was submitted by Apple & Franklin, attorneys for the applicant, on June 11, 1906, and on October 31, 1906 (I.T.D. 21448-1906), Departmental action of November 23, 1904, was rescinded, and the Commissioner of the Five Civilized Tribes was directed to re-adjudicate the application of Annie McGahey for enrollment as an intermarried citizen of the Choctaw Nation, under the provisions of the Act of Congress approved April 26, 1906 (34 Stat.L., 137). Additional proceedings were had in the matter, and on December 17, 1906, the former action of the Commission of the Five Civilized Tribes was rescinded, and on December 26, 1906,

the decision granting the application for the enrollment of Annie McGahey as a citizen by intermarriage of the Choctaw Nation was rendered.

The applicant and the attorneys for the Choctaw and Chickasaw Nations have been notified of the action of the Commissioner, and have been advised that if no protest was filed within fifteen days from the date, the name of Annie McGahey would be placed on a schedule of citizens by intermarriage of the Choctaw Nation and forwarded to the Department for approval.

It appears from the record herein that on September 10, 1902, the applicant was lawfully married to Arthur D. McGahey a recognized enrolled citizen by blood of the Choctaw Nation, whose name appears opposite No. 12276 on a final roll of citizens by blood of the Choctaw Nation; that at the time of the marriage both were residents in good faith of the Choctaw Nation; that they lived together continuously as husband and wife in that Nation from the date of the marriage up to and including September 25, 1902.

The Office is of the opinion that the decision of the Commissioner to the Five Civilized Tribes, granting enrollment of Annie McGahey as a citizen by intermarriage of the Choctaw Nation, under the provisions of the Acts of Congress approved June 28, 1898 (30 Stat.L., 498), and July 1, 1902 (32 Stat.L., 641), is correct, and it is recommended that it be affirmed.

You are further advised that no protest has been

-3-

received from the attorneys for the Choctaw or Chickasaw Nation
against the enrollment of the applicant.

Very respectfully,

C. F. Larrabee,

Acting Commissioner.

EWE--SD

Muskogee, Indian Territory, May 8, 1905.

S. A. Apple,

Attorney at Law.

Ardmore, Indian Territory.

Dear Sir:

Receipt is hereby acknowledged of your letter of May 3, 1905, asking the present status of the application of Annie McGahey for enrollment as an intermarried citizen of the Choctaw Nation.

In reply to your letter you are advised that on October 11, 1904, the Commission to the Five Civilized Tribes held that it was without authority to receive or consider the application of Annie McGahey for enrollment as an intermarried citizen of the Choctaw Nation for the reason that she was not married to her Choctaw husband Arthur McGahey until September 10, 1902, and did not make application for her enrollment as an intermarried citizen of the Choctaw Nation until November 21, 1902. On November 23, 1904, this action of the Commission was affirmed by the Department. The Commission therefore considers this case closed.

Respectfully,

Commissioner in Charge.

Mem 16

Muskogee, Indian Territory, June 11, 1906.

Apple & Franklin,
Attorneys at Law,
Muskogee, Indian Territory.

Gentlemen:

Receipt is hereby acknowledged of your letter of June 2, 1906, transmitting petition of Annie Banks, formerly Annie McGahey, for enrollment as an intermarried citizen of the Choctaw Nation by reason of her marriage on September 10, 1902, to Arthur D. McGahey, an enrolled citizen by blood of the Choctaw Nation, whose name appears upon the approved roll of citizens by blood of the Choctaw Nation No. 12276.

In compliance with your request the petition submitted by you has been forwarded the Secretary of the Interior and you will be advised when this office is notified of Departmental action thereon.

Respectfully,

Commissioner.

D.C. 48540.

(COPY-DeB)

DEPARTMENT OF THE INTERIOR. T.V.

WASHINGTON.

FILE

I.T.D. 11222-1906.

October 31, 1906.

21442- "

L.RS.

Commissioner to the Five Civilized Tribes,

Muskogee, Indian Territory.

Sir:

Referring to your letters of June 11 and October 10, 1906, relative to the application of Annie McGahey, to be enroled as an intermarried citizen of the Choctaw Nation, you are advised that in view of section 1 of the act of April 26, 1906 (34 Stats., 137), the decision of the Department of November 23, 1904, affirming the decision of the Commission to the Five Civilized Tribes refusing to receive the application, is hereby rescinded and you are authorized to readjudicate the case. The testimony in the matter, and argument, received with your letter of June 11th, and letter of the attorneys for the claimant, received with your letter of October 10th, are inclosed, together with copies of Indian Office letters of June 21 (Land 51017) and October 24, 1906 (Land 90386).

Respectfully,

E. A. Hitchcock,

Secretary.

Through the Commissioner
of Indian Affairs.

3 inclosures.

D.C.48540.

(COPY)

Refer in reply to
the following:

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

Land.
90386-1906.

October 24, 1906.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to invite your attention to the enclosed letter of the 10th instant from Tams Bixby, Commissioner to the Five Civilized Tribes, who says that on October 11, 1904, the Commission to the Five Civilized Tribes rendered a decision declining to receive the application for enrollment of Annie McGahey as a citizen by intermarriage of the Chectaw Nation, and that on October 14, 1904, the record was transmitted to the Department. On November 23, 1904, this action was affirmed by the Department (I.T.D. 11346-1904).

Mr. Bixby reports that on June 11, 1906, a petition for readjudication of the case which was submitted by Apple & Franklin, the attorneys at law, was forwarded to the Department. He now transmits a letter from S. A. Apple, under date of September 20, 1906, requesting that action be taken in this case in conformity with the opinion of the Assistant Attorney General of August 10, 1906, in the case of Elsie J. Cakes.

The record to which the Commissioner refers was forwarded by the Office to the Department on June 21, 1906, and it has not been notified of any action having been taken thereon.

Very respectfully,

C. F. Larrabee,

Acting Commissioner.

EBH-Y.

D.C.48540.

(COPY)

Refer in reply
to the following:

Land
51017-1906,
82334-1904.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON

June 21, 1906.

The Honorable,

The Secretary of the Interior.

Sir:

Referring to Department letter of November 23, 1904, I.T.D.11326, there is inclosed a report from the Commissioner to the Five Civilized Tribes, transmitting petition for re-adjudication in the matter of the application of Annie McGahey for enrollment as an intermarried citizen of the Choctaw Nation. The petition was filed on behalf of the applicant by Apple & Franklin, Attorneys at Law, Muskogee, Indian Territory. The record in the case is also enclosed.
Very respectfully,

C. F. Larrabee,

Acting Commissioner.

GAW-GH.

Memo 16

Muskogee, Indian Territory, January 7, 1907.

S. A. Apple,
Attorney at Law,
Ardmore, Indian Territory.

Dear Sir:

Receipt is hereby acknowledged of your letter of December 19, 1906, asking for a copy of the testimony taken December 3, 1906, in the matter of the application for the enrollment of Annie McGahey as an intermarried citizen of the Choctaw Nation; you also ask that action be taken at the earliest practicable date.

There is inclosed herewith copy of the testimony referred to together with receipt therefor which you are requested to sign and return to this office.

You are further advised that on December 26, 1906, a decision was rendered granting the application for the enrollment of Annie McGahey as an intermarried citizen of the Choctaw Nation and on December 28, 1906, the same was forwarded the Secretary of the Interior.

Respectfully,

ES 1-7.

Commissioner.

7-6052

Muskegee, Indian Territory, February 15, 1907.

Chief Clerk,

Chickasaw Land Office,

Ardmore, Indian Territory.

Dear Sir:

Receipt is hereby acknowledged of your letter of February 1, 1907, inclosing communication from S. A. Apple Ardmore, Indian Territory with affidavit signed by Annie McGahey who claims to be an applicant for enrollment as a citizen by intermarriage of the Choctaw Nation in which she asks that certain lands be noted on the records of this office as claimed by her as her prospective allotment and you ask to be advised the status of her application for enrollment and if notation should be made of her claim.

In reply to your letter you are advised that the name of Annie McGahey has been placed upon a schedule of citizens by intermarriage of the Choctaw Nation which has been forwarded to the Secretary of the Interior, and you are requested to make notation of her claim to certain lands upon the records of your office.

The affidavit inclosed with your letter is herewith returned.

Respectfully,

HB 3-15.

Commissioner.

DEPARTMENT OF THE INTERIOR,

JFJR

WASHINGTON.

LLB

I.T.D. 4010-1907
D.C. 10921-1907.

February 21, 1907.

LRS

Direct.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

December 28, 1906, the Acting Commissioner transmitted the record in the matter of the application for the enrollment of Annie McGahey as a citizen by intermarriage of the Choctaw Nation, including your decision dated December 26, 1906, granting said application.

Reporting February 16, 1907 (Land 113584-1906), the Indian Office recommended that your decision be approved. A copy of its letter is inclosed.

The Department concurs in said recommendation, and your decision is hereby affirmed.

The papers in the case and a carbon copy hereof have been sent to the Indian Office.

Respectfully,

Thos. Ryan,

1 inc. and 2 to Ind. Of.

First Assistant Secretary.

A.F.Mc.
2-23-07.

Refer in reply to the following:

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

Land.
213564-1906

(COPY)

February 16, 1907.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to transmit herewith a communication from the Acting Commissioner to the Five Civilized Tribes, dated December 28, 1906, enclosing the record of proceedings had in the matter of the application of Annie McGahey for enrollment as a citizen by intermarriage of the Choctaw Nation.

The Commission to the Five Civilized Tribes rendered a decision in this matter on October 11, 1904, declining to receive the application of Annie McGahey for enrollment as an intermarried citizen of the Choctaw Nation. The action of the Commission was approved by the Department November 23, 1904 (I.T.D. 11326-1904). A petition for re-adjudication was submitted by Apple & Franklin, attorneys for the applicant, on June 11, 1906, and on October 31, 1906 (I.T.D. 11448-1906), Departmental action of November 23, 1904, was rescinded, and the Commissioner of the Five Civilized Tribes was directed to re-adjudicate the application of Annie McGahey for enrollment as an intermarried citizen of the Choctaw Nation, under the provisions of the Act of Congress approved April 26, 1906 (34 Stat.L., 137). Additional proceedings were had in the matter, and on December 17, 1906, the former action of the Commission of the Five Civilized Tribes was rescinded, and on December 26, 1906,

the decision granting the application for the enrollment of Annie McGahey as a citizen by intermarriage of the Choctaw Nation was rendered.

The applicant and the attorneys for the Choctaw and Chickasaw Nations have been notified of the action of the Commissioner, and have been advised that if no protest was filed within fifteen days from the date, the name of Annie McGahey would be placed on a schedule of citizens by intermarriage of the Choctaw Nation and forwarded to the Department for approval.

It appears from the record herein that on September 10, 1902, the applicant was lawfully married to Arthur D. McGahey a recognized enrolled citizen by blood of the Choctaw Nation, whose name appears opposite No. 13276 on a final roll of citizens by blood of the Choctaw Nation; that at the time of the marriage both were residents in good faith of the Choctaw Nation; that they lived together continuously as husband and wife in that Nation from the date of the marriage up to and including September 25, 1902.

The Office is of the opinion that the decision of the Commissioner to the Five Civilized Tribes, granting enrollment of Annie McGahey as a citizen by intermarriage of the Choctaw Nation, under the provisions of the Acts of Congress approved June 28, 1898 (30 Stat.L., 495), and July 1, 1902 (32 Stat.L., 641), is correct, and it is recommended that it be affirmed.

You are further advised that no protest has been

-3-

received from the attorneys for the Choctaw or Chickasaw Nation
against the enrollment of the applicant.

Very respectfully,

C. F. Larrabee,

Acting Commissioner.

WFL--SD

Muskogee, Indian Territory, April 10, 1907.

Chief Clerk,

Choctaw Land Office,

Atoka, Indian Territory.

Dear Sir:

Referring to Annie McGahey at No. 1661 upon the approved roll of citizens by marriage of the Choctaw Nation, you are advised that this person is identical with Annie McGahey whose name appears at 1619 upon the approved roll of citizens by marriage of the Choctaw Nation approved February 12, 1907.

You are therefore directed to take no action relative to the issuance of citizenship certificate or the making of allotment to this person at No. 1661 upon the approved roll of Choctaw by marriage.

Respectfully,

Acting Commissioner.

Muskogee, Indian Territory, April 10, 1907.

Chief Clerk,

Chickasaw Land Office,

Ardmore, Indian Territory.

Dear Sir:

Referring to Annie McGahey at No. 1661 upon the approved roll of citizens by marriage of the Choctaw Nation, you are advised that this person is identical with Annie McGahey whose name appears at 1619 upon the approved roll of citizens by marriage of the Choctaw Nation approved February 12, 1907.

You are therefore directed to take no action relative to the issuance of citizenship certificates or the making of allotment to this person at No. 1661 upon the approved roll of Choctaws by marriage.

Respectfully,

Acting Commissioner.

Muskogee, Indian Territory, April 10, 1907.

Chief Clerk,
Chestaw-Chickasaw Allotment Division,
General Office.

Dear Sir;

Referring to Annie McGahey at No. 1661 upon the approved roll of citizens by marriage of the Chestaw Nation, you are advised that this person is identical with Annie McGahey whose name appears at 1619 upon the approved roll of citizens by marriage of the Chestaw Nation approved February 12, 1907.

You are therefore directed to take no action relative to the making of allotment to this person at No. 1661 upon the approved roll of Chestaws by marriage.

Respectfully,

Acting Commissioner.

Choctaw 6053

William T. Swadley
Minerva F. Swadley

Trans from memo #259 12-15-06
May 28, 1907 motion for rehearing
forwarded Dept. 6-17-07
Motion denied by Dept.

July 13, 1907 notices sent parties

6053

Memo. 259.
C. L. J.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the alleged application for the enrollment of Minerva F. Swadley and John W. W. Swadley as citizens by blood of the Choctaw Nation, and William T. Swadley as a citizen by intermarriage of said nation.

DECISION.

The Department on June 9, 1906 (I.T.D. 6395-1906), inclosed for report and recommendation special motion filed by Charles von Weise, attorney at law, Ardmore, Indian Territory, for permission to file an application for the enrollment of Minerva F. Swadley, William T. Swadley and John W. W. Swadley as citizens of the Choctaw Nation, and requested to be advised whether in view of the records of this office any application has been made for the enrollment of the applicants as citizens of the Choctaw Nation.

August 16, 1906, Minerva F. Swadley, and her husband, William T. Swadley, appeared before the Commissioner to the Five Civilized Tribes at his office at Muskogee, Indian Territory, and presented testimony relative to an application alleged to have been made for the enrollment of Minerva F. Swadley, and her son, John W. W. Swadley, as citizens by blood of the Choctaw Nation, and William T. Swadley as a citizen by intermarriage of said nation.

It does not appear from the records in the possession of this office that any formal application has ever been made for the enrollment of the applicants as citizens of the Choctaw Nation.

It appears from the records of the Commission to the Five Civilized Tribes that on September 7, 1896, in the case entitled "Minerv Swadley, et al., vs. Choctaw Nation" (1896 Choctaw Citizenship Docket, Case No. 1080), original application was made to said Commission, under the provisions of the Act of Congress approved June 10, 1896 (29 Stat., 321), for admission to citizenship in the Choctaw Nation of Minervi Swadley and J. W. Swadley as citizens by blood of said nation; and that on December 5, 1896, said Commission rendered its decision therein admitting Minervi Swadley as a citizen by intermarriage, and J. W. Swadley as a citizen by blood of the Choctaw Nation.

It further appears from the records of said Commission that on September 7, 1896, in the case entitled "W. T. Swadley vs. Choctaw Nation" (1896 Choctaw Citizenship Docket, Case No. 819), original application was made to said Commission, under the provisions of the Act of Congress approved June 10, 1896 (29 Stat., 321), for admission to citizenship in the Choctaw Nation of W. T. Swadley as a citizen by intermarriage; and that on December 4, 1896, said Commission admitted said applicant as a citizen by intermarriage of said nation.

From the decisions of said Commission of December 4, 1896, and December 1, 1896, admitting said applicants to citizenship in the Choctaw Nation, appeals were taken to the United States Court for the Central District of Indian Territory, where said cases were consolidated under the title of "Minerva Swadley, et al., vs. Choctaw Nation" (Citizenship Court Case No. 228). On January 31, 1898, said court rendered the following judgment:

"And the court having heard and considered the evidence introduced herein does find the facts to be; that the plaintiff, Minerva Swadley, is not a citizen of the Choctaw Nation and that she is not entitled to be enrolled as such citizen. That the plaintiff, W. T. Swadley, did not become a citizen of the Choctaw Nation by reason of his intermarriage with said Minerva Swadley; and that the children of said W. T. Swadley and Minerva Swadley are not citizens of the Choctaw Nation. It is, therefore, by the court considered, adjudged and decreed that the plaintiffs herein take nothing by their suit and that their names, to-wit: Minerva Swadley, William T. Swadley, together with their children, William Swadley, be excluded from the roll of Choctaw citizens prepared, or to be prepared, by the Commission to the Five Civilized Tribes"

Said cause was not certified to the Choctaw and Chickasaw Citizenship Court, created under the provisions of the Act of Congress approved July 1, 1902 (32 Stats., 641), for a trial de novo.

The evidence in this case shows that Minerva T. Swadley was born in the Choctaw Nation in 1853; that she is the daughter of William Hunter (now deceased) and Margaret Ann Hunter (now deceased), both of whom were Choctaw Indians by blood; and that said applicant was a resident in good faith of the Indian Territory on June 26, 1898.

The record herein further shows that William T. Swadley was on September 7, 1896, under the laws, customs and usages of the Choctaw Nation, married to the applicant, Minerva F. Swadley; that at the time of said marriage both of said applicants were residents in good faith of the Choctaw Nation; and that they lived together continuously as husband and wife in said nation from the date of said marriage up to and including September 25, 1902.

The applicant, John W. W. Swadley, was born in the year 1872, and is the son of the applicants, Minerva F. Swadley and William T. Swadley.

Upon an examination of the tribal rolls of the Choctaw Nation in the possession of this office, it appears that the applicant, Minerva F. Swadley, is identified upon the 1893 Choctaw Leased District Payment Roll, Atoka County, No. 947, as Manerva Swadley. Said record shows that said applicant did not draw the 1893 Leased District money, and opposite her name appears the notations, "No citizen" in lead pencil, and "Not entitled to draw", the latter being written in ink.

The applicant, John W. W. Swadley, is not identified upon any of the tribal rolls of the Choctaw Nation in the possession of this office.

I am of the opinion that inasmuch as the Commission to the Five Civilized Tribes in 1896 was without jurisdiction, in so far as

they attempted to pass upon the right to admission of the applicants, Minerva F. Swadley, as a citizen by blood of the Choctaw Nation, and William T. Swadley as a citizen by intermarriage of said nation, the action of the United States Court for the Central District of the Indian Territory of January 31, 1898, was without authority of law, and of no force or effect upon the status of the applicants as citizens of the Choctaw Nation; that the applications made to said Commission in 1896 should be considered as continuing applications for their enrollment as citizens of the Choctaw Nation; and that Minerva F. Swadley should be enrolled as a citizen by blood of the Choctaw Nation, and William T. Swadley as a citizen by intermarriage of said nation, under the provisions of the Acts of Congress approved June 28, 1898 (30 Stats., 495) and July 1, 1902 (32 Stats., 641), and it is so ordered.

I am further of the opinion that inasmuch as the applicant, John W. W. Swadley, did not in 1896 possess such a tribal status as would entitle him to enrollment as a citizen by blood of the Choctaw Nation, the decision of the United States Court for the Central District of Indian Territory, of January 31, 1898, is final, and I am without authority to take any action looking to the enrollment of said applicant as a citizen by blood of the Choctaw Nation, and I, therefore, decline to receive the same, and it is so ordered.



Commissioner.

Muskogee, Indian Territory,

DEC 15 1906

Memo.

DEPARTMENT OF THE INTERIOR.
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.
MUSKOGEE, INDIAN TERRITORY, AUGUST 16, 1906.

In the matter of the application for the enrollment of Minerva F. Swadley and John W. W. Swadley, as citizens by blood of the Choctaw Nation, and William T. Swadley as a citizen by intermarriage of the Choctaw Nation..

APPEARANCES:

Charles von Weise, attorney of Ardmore, Indian Territory, appears for the applicants.
No appearance on behalf of the Choctaw and Chickasaw Nations.

Attorneys for the applicants present copy of notice served upon Mansfield, McMurray & Cornish, attorneys for the Choctaw and Chickasaw Nations, notifying them that a hearing would be had at the office of the Commissioner to the Five Civilized Tribes on August 16, 1906, in the matter of the alleged application of the applicants herein.

MINERVA F. SWADLEY, being first duly sworn by W. W. Chappell, testified as follows:

(By the Commissioner)

- Q What is your name? A Minerva F. Swadley.
Q How old are you? A I am 53.
Q What is your post office address? A Coalgate.
Q Have you ever personally appeared before the Commissioner, or before the Commission to the Five Civilized Tribes and made application for your enrollment as a citizen by blood of the Choctaw Nation? A I never personally appeared.
Q This is your first personal appearance before this office?
A I appeared at South Hallinger, not here at this office, this is my first time at this office.

It does not appear from the records of this office that any formal application has ever been made for the enrollment of the applicant as a citizen by blood of the Choctaw Nation.

V. F. Swadley----2.

- Q Have you ever written to the Dawes Commission, or to the Commissioner to the Five Civilized Tribes about your right to enrollment as a citizen by blood of the Choctaw Nation?
A I appealed to the Dawes Commission and was reinstated.
Q (Question read) A I never written myself, my attorney wrote.
Q When was that letter written? A That was when I appealed to be reinstated.
Q You mean when you applied to the Commission in 1896?
A To the Dawes Commission.
Q To the Dawes Commission in 1896? A Yes, and was reinstated.
Q You mean by that, that you were admitted by the Dawes Commission in 1896? A Yes sir.
Q How did you apply for yourself at that time? A Just for reinstatement.
Q As what? A Choctaw citizen by blood.
Q Did you apply for anyone else besides yourself in 1896?
A Two children.
Q What were their names? A William W.---John W. W. Swadley.
Q How did you apply for him? A Citizen by blood.
Q What action was taken by the Commission? A They reinstated us.
Q Admitted you? A Yes, admitted.

It appears from the records of the Commission to the Five Civilized Tribes that on September 7, 1896, in the case entitled "Minerva Swadley, et al., vs. Choctaw Nation" 1896 Citizenship Docket, Case No. 1080, original application was made to the Commission for admission to citizenship in the Choctaw Nation of Minerva Swadley and J. W. Swadley, as citizens by blood of said nation; and that on December 5, 1896, said Commission rendered its decision therein, admitting Minerva Swadley as a citizen by intermarriage, and J. W. Swadley as a citizen by blood of said nation. From this decision of the Commission an appeal was taken to the United States Court for the Central District of the Indian Territory, in the case entitled "Minerva Swadley, et al., vs. Choctaw Nation", Citizenship Case No. 228, and that on January 21, 1898, said case was consolidated with the case of W. F. Swadley vs. Choctaw Nation, Citizenship Case No. 235. That on said date said court rendered the following judgment: "That the plaintiff, Minerva Swadley, is not a citizen of the Choctaw Nation, and that she is not entitled to be enrolled as such citizen: that the plaintiff, W. F. Swadley, did not become a citizen of the Choctaw Nation by reason of his marriage to said Minerva Swadley, and that the children of said Minerva Swadley and W. F. Swadley are not citizens of the Choctaw Nation. It is, therefore, the court, considered, adjudged and decreed that the plaintiffs herein take nothing by their suit, and that their names, to-wit: Minerva Swadley, William F. Swadley, together with their children, William Swadley and Rose Swadley, be excluded from the roll of Choctaw citizens prepared, or to be prepared by the Commission to the Five Civilized Tribes and that the Choctaw Nation have and recover all its costs in this connection expended."

M. F. Swadley---3.

- Q Now, where were you born, Mrs. Swadley? A Jackson County.
Q Choctaw Nation? A Yes.
Q What is the name of your father? A William Hunter.
Q What was he? A Choctaw by blood.
Q How much? A Pretty near a full blood.
Q When did he die? A I disremember exactly--it has been about 8 years I think, 8 or 10 years somewhere.
Q What was the name of your mother? A Margaret Ann.
Q Margaret Ann what? A Morris.
Q What was she? A Choctaw by blood.
Q She living? A No sir.
Q When did she die? A She died in '72.
Q At what place in the Choctaw Nation were you born, what post office? A Close to Bennington.
Q How long did you live there? A Until after I was 17 years old.
Q Then where did you go? A Went to Sherman, Texas, and was married.
Q How long did you live at Sherman? A I don't know just exactly how long.
Q About how many years? A About ten, I reckon.
Q Then where did you go? A Came back to the Chickasaw Nation.
Q Chickasaw? What place? A Tishomingo.
Q How long did you stay at Tishomingo? A It might be four or five years.
Q Where did you go to? A Go to Coalgate, Choctaw Nation.
Q How long did you live there? A 14 years.
Q Up to the present time? A Yes sir, never moved.
Q Have you ever in any manner been recognized by the Choctaw Tribal Authorities as a citizen of the Choctaw tribe? A Yes.
QQ You were not living in the Choctaw Nation in 1885, at the time the '85 Choctaw Census Roll was made, were you? A Yes.
Q Didn't you state that you lived in the Choctaw Nation until you were 17 years old and then went to Sherman, Texas, and there married, and stayed there ten years?
Q About that time.
Q You were born in 1853? A Yes, in 1853. But I made no memorandum, we moved from place to place.
Q Was your name inscribed upon the 1885 Choctaw Census Roll (No answer)
Q You were married in 1885? A Yes sir.

An examination of the 1885 Choctaw Census Roll fails to disclose the name of the applicant thereon.

- Q Where were you living in 1893? A Coalgate.
Q What county is Coalgate in? A It is Atoka County, I believe.
QQ Did you draw the 1893 Leased District money? A No sir.
Q Why didn't you? A Because I was denied the day I went to draw my money, they wrote under my name "No citizen, not entitled to draw."
Q And they wouldn't recognize and give you the money? A No sir.
QQ Did you have any children in 1893? A Yes.
Q Was John W. Swadley living at that time? A Yes, he was home with us at that time.
Q When was John W. Swadley born? A '71--'72 it was.

M. F. Swadley-----4.

The name of the applicant, Manerva Swadley, appears upon the 1893 Choctaw Leased District Payment Roll, Atoka County, page 97, opposite No. 947, and opposite her name appears the notation "No citizen, not entitled to draw." No money was paid to said applicant.

(By Mr. VonWeise)

It appears from the said roll that the notation "No citizen" is written in pencil; that the notation "not entitled to draw" is not written in the same hand writing as "Manerva Swadley", as will be apparent from a close examination of the letters "d" and "e" appearing in the name of Swadley, and the letters "e" and "d" appearing in the word "entitled", and the letter "d" appearing in the word draw.

(By the Commissioner)

- Q Your son, John W. W. Swadley was of age in '93, wasn't he?
A Yes sir.
Q And his name doesn't appear upon the 1893 roll? A No sir.
He wasn't at home at that time.
Q Where was he? A He went home with his grandfather in Texas--Mr. Swadley's father. He had been sick and he went on to Texas with his grandfather.
Q You were living in the Choctaw Nation in 1896? A Yes, living at Coalgate.

It does not appear upon an examination of the 1896 Choctaw Census Roll that the name of the applicant or her son appear thereon.

- Q Can you give any explanation why your name is not on the 1896 census roll? A No sir.

(By Mr. Von Weise)

The applicant's attorney objects to the question of the Commission for the reason that it is immaterial as to what the reason might have been for her name not appearing upon said roll.

(By the Commissioner)

- Q When were you married to your husband, W. T. Swadley?
A Choctaw license.
Q I say when were you married to your husband, W. T. Swadley?
A In '71.
Q What date in '71? A 12th of November.
Q Where were you living at that time? A At Sherman, Texas, is where we were married.
Q You were living there in Texas before you were married?
A I was staying with one of my aunts on a visit.
Q W. T. Swadley was living in Sherman then? A Yes sir he was.
Q What is the date of the birth of W. W. Swadley? A The third day of August, 1872.
Q Have you been married before you married him? A No sir.

M. F. Swadley-----3

Q Has he resided with you at the different places that you have mentioned? A Yes sir.

EXAMINATION

(By Mr. von Weise)

Q You were married to Mr. Swadley under a Texas license in '72?

A Yes sir.

Q Did you afterwards remarry under a Choctaw license? A Yes.

Q Do you remember the date? A September 7

September 7, what year? A '96 I believe.

Q 1896? A Yes.

Q The Commission asked you if you knew the reason you didn't draw the money in 1893? A Yes sir.

Q I will ask you to state if you, or your husband, had any trouble with any Choctaw official about that time in regard to that money? A Yes sir.

Q Just state, in your own language, what occurred?

Q He wanted to buy my leased district money for \$75 and I wouldn't sell it to him.

Q What official? A That Deputy Sheriff.

Q Of what county? A Atoka County.

Q He is a Choctaw Indian by blood, is he not? A Yes sir.

Q Had you been notified prior to the time that Mr. Harrison tried to buy your leased district money? A Yes sir, and I saw it put upon the roll myself.

Q Where did you appear before the Choctaw Piling Board to have your name placed upon the roll? A In Atoka.

Q When was it after your name was placed upon the roll at Atoka that you discovered this notation that has been read to you, to have been placed upon the 1893 roll?

A The day I went to draw the money.

Q Had you ever been notified by the Choctaw Nation through its tribal authorities that your citizenship was in dispute?

A No sir.

Q Are you acquainted with Ben Hunter, the ex-governor of the Choctaw Nation--or Tom Hunter? A He has never been governor, he was the principal of the school at Armstrong Academy.

Q Is he the same man that run for Governor against Green McCurtain a year ago? A Yes sir.

Q What relation is he to you? A Cousin.

Q On what side? A My father's side. We both bear the same name.

Q Your father and his father are full brothers, are they?

A Yes.

Q Have you ever at any time from 1871, when you married your husband, William Thomas Swadley, been separated? A No sir.

Q Lived continuously as husband and wife? A Yes sir.

Q You say that the time you first went to Sherman, Texas, you were there on a visit? A Yes sir, with my aunt.

Q Were your parents living at that time? A Yes sir.

Q Where were they living? A I cannot tell what county. Up close to Burneyville, in the Choctaw Nation.

(Adjourned till one o'clock, P. M.)

(Case continued)

(By Mr. von Weiss)

- Q Mrs. Swadley, at the time you first went to Sherman, had you been living with your parents up to that time? A Yes.
- Q I believe you stated that you simply went to Sherman on a visit? A Yes sir.
- Q Was it while you were there that you met your husband? A Yes sir.
- Q Did you marry him before you went back home? A Yes sir, married him before I went back home.
- Q Then as given by your testimony before the Commission, you you lived at Sherman for several years after that? A Yes sir.
- Q And then after leaving Sherman you came to Tishomingo? A Yes Tishomingo was our post office.
- Q You were living in the country? A In the country and our post office was Tishomingo.
- Q And after that you came to Coalgate. A Yes sir.
- Q And been living there ever since? A Yes sir.
- Q And you came to the Choctaw Nation in 1898? A Yes.
- Q Was your child, J. W. W., born in the Choctaw Nation? A No sir.
- Q Born in Texas? A Born in Texas, Grayson County.
- Q Now I will get you to state whether or not you ever made any inquiry as to why you were not permitted to draw the money in 1893--Did you ever make any investigation of that, try to find out why they refused to pay you? A Because I was cut off of the rolls by William Harrison.
- Q Is he the man who attempted to buy your leased district money for \$75? A Yes sir.
- Q Is he living now? A He was the last time I heard from him. I haven't seen him for over two years--saw his mother.
- Q Well, the next step you took then in regard to your enrollment was before the Commission in 1896, when you filed your application for enrollment in 1896? A Yes sir.
- Q Did you receive a notice from the Commission that you had been admitted? A Yes sir.
- Q Do you remember whether you applied as an intermarried citizen, or as a citizen by blood? A Citizen by blood.
- Q You have always claimed to possess Choctaw blood? A Yes.
- Q Did you ever own any property in the Choctaw Nation? A Yes sir.
- Q Where was that property, and what was it? A Why, it was a farm of 500 acres, in meadow, and a farm together.
- Q Where was that located? A Near to Coalgate, between Lehigh and Coalgate, about two miles from where we are living now.
- Q When did you first get possession of that? A I don't remember.
- Q Was it after you moved to Coalgate? A Yes sir.
- Q Do you still own that property? A No sir.
- Q When did you dispose of it? A About four years ago.
- Q Do you know of your own knowledge whether permits were issued to you or your husband? A They were issued to my husband.

M. F. Swadley-----7.

(By the Commissioner)

- Q You stated that you were related to Tom Hunter? A Yes.
Q Now, what is the name of Tom Hunter's mother?
A Tennessee.
Q Tennessee what? A Tennessee Hunter.
Q Was she a Choctaw by blood? A No Sir.
Q Do you know from whom he gets it? A He gets it from his father.
Q Do you know whether he gets any from his mother or not?
A I don't know whether she has any Choctaw blood. She looks less like it than Tom. Tom don't look any more like a Choctaw than I do, if you would see us together you would think we were brothers and sisters.
Q Where is your son J. W. W. Swadley now living?
A Lives at Coalgate.
Q How long has he been living there? A Ever since we have. He came there that year, married there, and living there now.
Q You stated that you remarried your husband, W. T. Swadley in 1896 under a Choctaw license? A Yes Sir.
Q Where were you living at that time? A Coalgate.
Q Husband there with you? A Yes Sir.
Q Who issued that license? A Sam Downing, clerk of the Choctaw nation, County Clerk.
Q Who married you? A Brother Mathias--Baptist preacher.
Q What was the exact date of that marriage.
A I married him September 7.
Q William Harrison lives at Atoka still, does he?
A I don't know whether he is or not.

(By Mr. von Weise)

- Q Your son, John W. W., has he ever resided outside of the Choctaw and Chickasaw Nations any time other than the time that you say you were? A No sir, only he went to Port Smith to take a commercial course, the only time.
Q Are you an educated woman, Mrs. Swadley? A No sir, I am not.
Q Have you ever had any schooling whatever? A No, but six months.
Q Are you familiar with dates? A No sir.
Q Can you read or write? A I can read print, but not very well.
Q You cannot write? A No sir.

(Witness excused)

W. T. SWADLEY, being first duly sworn, by V. W. Chappell, testified as follows:

(By the Commissioner)

- Q What is your name? A W. T. Swadley, William Thomas Swadley.
Q How old are you? A I will be 57 the 22nd day of September.
Q What is your post office address? A Coalgate.

H. F. Swadley-----8.

- Q Have you ever made application to the Commission, or to the Commission to the Five Civilized Tribes for enrollment as a citizen by intermarriage of the Choctaw Nation? A Yes.
- Q When was that application made? A I think it was somewhere in September, '96.
- Q That is the only application you have ever made? A That is all I have made

It appears from the records of the Commissioner to the Five Civilized Tribes that on September 7, 1896, in the case entitled W. T. Swadley vs. Choctaw Nation, Citizenship Docket Case No. 819, original application was made to said Commission under the provisions of the Act of Congress approved June 10, 1896, for admission to citizenship of W. T. Swadley, as a citizen by intermarriage, claiming his right thereto by virtue of his marriage to Manerva Hunter, who is alleged to have been a citizen by blood of the Choctaw Nation.

That on December 4, 1896, said Commission rendered its decision therein, admitting said applicant as an intermarried citizen. From which decision of the Commission an appeal was taken to the United States Court for the Central District of the Indian Territory, wherein said case was consolidated with the case of Manerva F. Swadley, et al. vs. Choctaw Nation, Citizenship Docket, case No. 228.

The judgment in the case of W. T. Swadley is found as above set forth in the case of Manerva Swadley, et al., vs. Choctaw Nation.

- Q Your wife has testified that you were married to her in September 7, 1896 under a tribal license issued by the authorities of the Choctaw Nation? Is that correct?
- A Yes sir.
- Q She gave the date as September 7, 1896, is that correct?
- A I think that is correct, as near as I can remember.
- Q Have you a copy of that certificate
- (By Mr. Von Weise) We have a copy here in the Commission's own records.
- (By the Commissioner)

A copy of a certified copy of the marriage license and certificate, showing the marriage of W. T. Swadley to Manerva Swadley filed herewith and made a part of the records in this case.

- Q Were you a resident of Atoka County when you married Manerva Swadley in 1896? A Yes sir.
- Q Had you ever been married before you married her?
- A Before I married her in the Choctaw Nation or in Texas?
- Q Well, you had been married to her in Texas before that?
- A Yes sir.
- Q Had you ever been married to any other woman? A No sir.
- Q Have you lived in the Choctaw Nation, since your marriage to Mrs. Swadley in 1896? A Yes sir.

(By Mr. von Weise)

- Q Resided continuously at Coalgate since 1896? A Yes sir.
- Q You say you were married to your wife, in 1896? A Yes sir, on the 12th day of November '91.

Q Where? A In Texas.

(By the Commissioner)

Q Are you a white man? A I suppose I am.

Q What is the name of your father? A John.

Q And your mother? A Elizabeth.

Q Either of them living? A No sir, both dead.

(By Mr. von Weise)

Q They were natives of what state? A I believe of Tennessee.

Q How long have you lived in the Choctaw and Chickasaw Nations? A Ever since 1885--in the territory since 1885, in the winter of '85 about Christmas.

Q Are you the father of John W. W. Swadley? A Yes sir.

Q Has he resided in the Choctaw and Chickasaw Nations as long as you and your wife have resided there? A Yes sir.

Q Has he lived with you? A Well he has, up till he was married, made his home at my place.

Q When was he married? A Now there is a date I can't remember?

Q About how many years ago? A About four or five.

Q And he has maintained a separate household since then?

A Yes sir.

Q Still in the Choctaw Nation? A Yes sir.

Q Coalgate? A Yes sir.

Q Do you know anything about the circumstance of your wife being refused payment in 1893 when the leased district payment was made? A Yes sir.

Q Do you know whether she was enrolled at that time for payment? A Yes sir.

Q Do you know the reason that the notation was made that now appears upon the 1893 roll? A It is only supposition, I don't know anything positive.

Q Did you ever have any controversy with William Harrison in regard to her leased district money? A Not particular about the leased district money. The first trouble that came up between me and Mr. Harrison--I bought a water wagon, a water outfit, and about November, 1891, and I had taken possession of it, and in '92, I think it was, I run the water wagon, up to that time, I bought a place and moved down near to where Mr. Harrison was living and I rented some wells from him to haul water out of, and adjoining his place there was another place belonging to Egie. I made arrangements, I think. I bought Mr. Egie's place; there was a fence between Mr. Egie's place and Mr. Harrison's place and the one I bought. And I proceeded to dig a well on the place after I bought it, and Mr. Harrison came down and said that I had no right to dig a well and run a water wagon without permission, and that was the first misunderstanding we had, until my wife got notice that she was enrolled for her leased district money. Sometime after that Mr. Perry, Dick Perry offered me \$98 for her claim. Shortly after that Mr. Harrison came to me and offered to buy her claim and offered me \$75 for it, and I refused to take it and there was a young man living with me at the time named Dick Tiner,

M. F. Swadley-----10.

and he bought his claim for \$75, and I refused to sell him mine, and that is as near as I can get at it, and if that wasn't the cause why the old woman was cut off, I don't know anything else.

- Q Isn't it a fact that he was active in preventing her from attempting to draw at Atoka? A Yes sir.
- Q Isn't it a fact that he was very active in attempting to defeat her case for enrollment at South McAlester when her case was appealed from the Commission to the United States Court? A Yes sir.
- Q Did you ever own any property in the Choctaw Nation, in connection with your wife, I mean by property, improvements? A Yes sir.
- Q Where was that located? A Near Coalgate, one mile southwest.
- Q What did it consist of? A It consisted of an improvement of about 500 acres, or something like five or six hundred under fence--pretty fair improvements, buildings, wells, barns.
- Q Any cultivated land? A About forty acres in cultivation.
- Q Did you ever employ any person under permits to work on this place? A Yes sir.
- Q Permits were issued to you by the Choctaw tribal authorities? A Yes sir.
- Q Did you file these permits in 1896 with the Dawes Commission? A Yes sir.

(By the Commissioner)

- Q What connection has William Harrison, of whom you have spoken here, with the notation made upon the 1893 leased district payment roll? A He is the man that caused that to be made after she was enrolled and after she refused to sell this claim to him for \$75.

(By Mr. von Weise) And I will show that. That is already a matter of record which we will refer to, and I will ask that certain records be made a part of this case and considered in the determination of this cause.

The applicant desires to call attention to the affidavits of Levina F. Franklin, Silas Lawrence and Bob Roberts, which are filed with the applications of Minerva Swadley and William F. Swadley in their application to the Dawes Commission in 1896 for enrollment, and which now are on file in the United States Court for the Central District, Indian Territory, at South McAlester, certified copies of which are on file with the Department of the Interior in the motion filed by Minerva F. Swadley, et al., for enrollment as a citizen of the Choctaw Nation.

We ask fifteen days within which to file brief in this case on the law governing this case.

(By the Commissioner) The request is granted.

WITNESS EXCUSED AND CASE CLOSED.

Edna DeBard, stenographer to the Commissioner to the Five

M. F. Bradley—11.

Civilized Tribes, being first duly affirmed, states that she correctly reported the proceedings had in the above entitled cause, and that the above and foregoing is a true and correct transcript of her stenographic notes, taken on the 16th day of August, 1906.

Kate D. Bold

Subscribed and affirmed to before me this 21st day of August, 1906.

B. P. Rasmussen
Notary Public.

(COPY)

Department of the Interior

In re,

Application for the enrollment of Manervia F. Swadley as a citizen by blood of the Choctaw Nation.

Application for the enrollment of William T. Swadley as a citizen by intermarriage of the Choctaw Nation.

Application for the enrollment of John W. W. Swadley as a citizen by blood of the Choctaw Nation.

SPECIAL MOTION.

Comes now the above named applicants and move the Honorable Secretary of the Interior to permit them to file the petition motion and brief, hereto attached, direct with the Department of the Interior at Washington for the reason that they allege it would appear that the Commissioner to the Five Civilized Tribes does not seem disposed to give them any a-fair-and-just consideration, as will be seen from a letter received by applicants' attorney wherein said Commissioner states that it does not appear from the records of his office that an application has ever been filed in his office by or on behalf of these applicants, as will more fully appear from the letter so received from the said Commissioner, which is hereto attached, marked exhibit "A" and made a part of this motion.

Petitioners charge to truth to be that on September 7, 1896 they filed a petition for enrollment as above set forth, with the Commission to the Five Civilized Tribes, and that on December 4th 1896 said Commission rendered a decision admitting them to citizenship in the manner and form as set up in their said petitions; that on February 2, 1897 an appeal was taken by the Choctaw Nation to the United States Court for the Central District Indian Territory in said causes and the decisions of the Commission was reversed; as will more fully appear from a certified copy of the record hereto attached marked Exhibit "B" & made a part hereto.

Petitioners charge the truth to be that if there are

not permitted to file their motion and brief direct with the Secretary of the Interior, that they will be denied a hearing by the Commissioner to the Five Civilized Tribes and thereby be deprived of their just rights by his wrongful, arbitrary, xxxxx, and illegal actions.

The petitioners would further respectfully move that in as much as there is an undecided question of law involved in the matter of their applications for enrollment as citizens of the Choctaw Nation, that this entire matter be referred to the Assistant Attorney General for the Department of the Interior for adjudication.

W H E R E F O R E , The premises considered, petitioners move that they be permitted to file the attached ^{petition} motion and brief direct with the Secretary of the Interior and that they be not required to file the same with the Commissioner to the Five Civilized Tribes; and further, that the question involved in their ^{petition} motion, being questions of law, be referred to the Assistant Attorney General for the Department of the Interior, for consideration.

Respectfully submitted,

Charles von Weise

Attorney for petitioners.

United States of America
Indian Territory,
Central District

We, Manervia F. Swadley, William T. Swadley and John W. W. Swadley, upon our oath state that we are the parties mentioned as petitioners in the foregoing motion; that we have read, or heard read, the contents of said motion, and

and that the facts therein contained are true as we verily believe.

Witness to mark
M. Henpers
J. H. Carson

for
Manorvia F. Swadley
mark

William T. Sawdley

John W. W. Swadley

Subscribed and sworn to before me this the 2nd day of April,
1906.

(SEAL)

Theo Von Keller

My commission expires
Jan 30th 1910.

Notary Public, Cent. Dist. I.T.

DEPARTMENT OF THE INTERIOR.

In re,

Application for the enrollment of Manervia F. Swadley as a citizen by blood of the Choctaw Nation.

Application for the enrollment of William T. Swadley as a citizen by intermarriage of the Choctaw Nation.

Application for the enrollment of John W. W. Swadley as a citizen by blood of the Choctaw Nation.

BRIEF and ARGUMENT.

Petitioners contend that they are entitled to enrollment for the following reasons:

FIRST:- For the reason that the Commission to the Five Civilized Tribes in rendering its decision in 1896 under the Act of June 10, 1896 (29 Stats., 321-329), acted solely within its authority and by virtue of said decision these petitioners should have been placed upon the final rolls of the Choctaw Nation.

SECOND:- For the reason that the decision of the United States Court for the Central District Indian Territory, setting aside the favorable decision of the Dawes Commission was void for the reason that said Court had no jurisdiction over the subject matter.

THIRD:- For the reason that if the United States Court for the Central District Indian Territory, had the right to entertain the appeal on the part of the Choctaw Nation from the decision of the Commission, that the decision of said court was set aside by the Choctaw-Chickasaw Citizenship Court in the test case of Ridley, et al, and no action having been taken by said Choctaw-Chickasaw Citizenship court in this particular case the decision of the Commission is in full force and effect.

In support of the first contention, petitioners represent that under the act of June 10, 1896, Supra, the Commission was to hear and determine the application of all persons who might apply to them for the establishment of citizenship rights to the five civilized tribes, and by the terms of said Act "the rolls of citizens of the several tribes as now existing are hereby confirmed." There were two things that the Commission could do under said act, first, it could admit to citizenship all persons claiming such rights whose right was denied or had in no manner been recognized by the tribes: secondly, it was "To give due force and effect to the rolls, usages and customs" of each tribe, and there was no authority vested in said commission to purge the rolls of the tribe then existing of any name found thereon, but on the other hand, it was to give due force and effect to the rolls of the tribes. Therefore, when the Commission came to consider the application of Manervia F. Swadley it found by consulting the tribal rolls of the Choctaw Nation that her name was upon the 1893 Leased District Payment Rolls of said Nation, and the only adjudication of her case that said Commission could legally make was to place the name of Manervia F. Swadley upon the roll it was preparing--- why? Because, under the act of June 10, 1896, it was commanded and directed to give due force and effect to the rolls of the Choctaw Nation. In the consideration of the claim of John W. W. Swadley for citizenship rights in the Choctaw Nation, the proof showed that he was the son of Manervia F. Swadley and was therefore entitled to enrollment as the DECEASED of one whose name appeared upon the tribal rolls of the Choctaw

The Act of June 7, 1897, (30 Stats. 83-4) defines what was intended by the term "rolls of citizenship" as used in the Act of 1896, and by that we find that it carried with it THE DESCENDANTS OF THOSE APPEARING ON SUCH ROLLS. Such DESCENDANTS were regarded as on the roll whereon their parents were found regardless of whether their names actually appeared thereon or not. The proof of the marriage of William T. Swadley to his Choctaw wife, first under a Texas license in 1871, prior to the intermarriage Act of the Choctaw Nation of 1875 and again under Choctaw license in 1896, clearly entitled him to enrollment on the roll being prepared by the Commission for the intermarriage was in itself an enrollment of the said William T. Swadley upon the tribal roll and the mere omission of his name from said roll was not fatal. The report of the Dawes Commission of December 31, 1901, shows the rule which governed in the matter of the enrollment of intermarried citizens.

Thus we think we have clearly shown that the ONLY legal action the Commission could have taken in connection with the application of these persons in 1896 was to have rendered a favorable decision, AND TO HAVE PLACED THEIR NAMES UPON THE FINAL ROLLS OF THE CHOCTAW NATION. The Commission had no other alternative under the law?

In support of our second contention we would respectively refer to the Departmental decision in the case of Loula West, et al., (I.T.D. 10353-1904 & I.T.D. 3693-1905), and also to Departmental decision in the case of Mary C. Keifer (I.T.D. 5066-1902 & 6236-1903), wherein it was held "the United States Court under the Act of 1896, supra, had in citizenship cases no other jurisdiction than an appellate one, and from the very nature of such jurisdiction obtained no jurisdiction by an at-

tempted appeal of a matter wherein the original tribunal had no jurisdiction." We contend that the only power the Commission had in 1896 in regard to the applications of these parties was to place their names upon the roll which it was then preparing for the reason that they were recognized by the tribal authorities and upon the tribal roll prior to 1896. This contention is fully sustained by Departmental decision of May 21, 1903, in the Choctaw Case of Wiley Adams. Now then, it follows that no appeal would lie to the United States Court as the citizenship status of these applicants was already established prior to 1896 and the Commission did not admit them in 1896, but simply should have placed their names upon the rolls it was preparing-- a mere clerical duty. There can be no disputing that the name of Manervia F. Swadley appears upon the 1893 Leased District Payment roll of the Choctaw Nation; the fact that the notation appears after her name "Not entitled to draw" in no way effects that enrollment as there is nothing on said tribal roll to show that such notation was made with authority, neither has there ever been any proof offered to that effect, but on the other hand such testimony as has been offered on this point as will be seen from an examination of the record of testimony taken before the United States Court for the Central District, of the Indian Territory, in this case, points to the fact that said notation was made by one William Harrison the enemy of William T. Swadley and made for the purpose of revenge. If said notation was made by the Leased District Payment Commission of the Choctaw Nation, we contend that same is of no binding force or effect, as it was done without authority of law and in this connection we de-

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sire to call especial attention to Departmental Decision of June 9, 1905, in the Chickasaw Case of Kelo Brown, et al., (I.T.D.80600-1903 & 5326-1904) wherein appears a statement that "The Nation's counsel concede that the Leased District payment Commission had no judicial power to try a ^{disputed} claim of citizenship or to render a judgment of non-franchisement." The tribal enrollment of Manerva F. Swadley was such that the Commission was in duty bound to have consider it as an enrollment in 1896, and could have expunged it under the act of June 28, 1898, only upon satisfactory proof that it was place there through fraud. Such proof has never been offered. Equally free from contention, is the statement that the DESCENDANT of Manervia F. Swadley, John W. W. Swadley and likewise her husband, William T. Swadley were duly upon the tribal rolls at the time they applied to the Commission in 1896. Hence we feel certain as to the justice of our contention that the alleged appeal to the United States Court for the Central District Indian Territory from the decision of the Commission was void for want of jurisdiction over the subject matter on the part of said court.

As to our third contention, we will for the purpose of argument grant that the appeal from the Commission to the United States Court was proper and legal, but notwithstanding such appeal and the reversal of the Commission's judgment, said judgment of the Commission is now in full force and effect, for the reason that under the Act of July 1, 1902 (the Choctaw-Chickasaw Citizenship Court was vested with the power to annul the decisions of the United States Court, and in the test case of ---Ridley, et al., said decisions were annulled. Under the further provisions of said act of July 1, 1902, the

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Choctaw and Chickasaw Nations should have appealed, or transferred, the cases of these applicants to the Choctaw-Chickasaw Citizenship Court, if they desired the further adjudication of said cases, but failing in that they stand of record as ratifying the decision of the Commission, said decision reviving upon the annulment of the decision of the United States Court. It certainly could not be contended that the action of the Choctaw-Chickasaw Citizenship Court set aside the decision of the Commission in these cases at the same time it annulled the decision of the United States Court; that power was never conferred upon said court by the Act of July 1, 1902, and certainly cannot be assumed. A Tribunal cannot exercise any greater scope of power than is given it by the law creating it, and the source and mode of acquiring jurisdiction of the subject matter is to be sought for in the general nature of the powers of the tribunal, or in its authority especially conferred. Nowhere in the Act of July 1, 1902, can be found the authority for the Choctaw-Chickasaw Citizenship Court annulling the decision of the Dawes Commission.

WHEREFORE, the premises considered the petitioners pray that an order issue directing the Commissioner to the Five Civilized Tribes to enter their names upon the roll of citizens of the Choctaw Nation now being prepared, and that they be allowed to enter upon all the rights and privileges incident to such citizenship.

Respectfully submitted

Charles von Weise,

Attorney for applicants

Before the Commissioner to the Five Civilized Tribes.

In re,

Application for the enrollment of Manervia F. Swadley
as a citizen by blood of the Choctaw Nation.

Application for the enrollment of William T. Swadley
as a citizen by intermarriage of the Choctaw Nation.

Application of John W. W. Swadley for enrollment as a
citizen by blood of the Choctaw Nation.

BRIEF AND ARGUMENT.

It is contended for the petitioner Manervia F. Swadley that she is entitled to enrollment as a citizen by blood of the Choctaw Nation for the reason that her name appears upon the Choctaw Leased District Payment Roll for 1893 and therefore she should have been listed by the Commission for enrollment under her application in 1896. Under the act of June 10, 1896, the Commission was directed to hear and determine the applications of all persons who might apply to it for the establishment of their citizenship rights in the Choctaw Nation, and by said act the "rolls of citizens of the several tribes" as then existing were confirmed and the name of the applicant Manervia F. Swadley appearing upon one of the tribal rolls of the Choctaw Nation then existing, the Commission had no power other than to place her name upon the schedule it was then preparing of citizens of the Choctaw Nation. Under said act of Congress the Commission had no power to purge the tribal rolls of any name found thereon; this power was not given it until the Act of June 28, 1898 was enacted, and it was limited therein to those only who were placed thereon through fraud or without authority of law.

It appears from the judgment rendered by the Commission to the Five Civilized Tribes on December 5, 1896 in the case of Minerva Swadley et al vs. Choctaw Nation #1080, the record of which is found on Choctaw record C., page 260 of said Commission, that the Commis-

sion "admitted" the applicant, Manervia P. Swadley as an intermarried citizen, but as no claim was made by her at that time that she was an intermarried citizen, and as the application she made set forth her claim as a citizen by blood of the Choctaw Nation, which claim was supported by evidence, said listing was clearly a clerical error and subject to correction as of course. See Departmental decision in the case of Emma Seifried (I.T.D. 10492-1905), therefore said judgment stands as though she had been listed as a Choctaw citizen by blood. From this decision an appeal was taken to the United States Court for the Central District, Indian Territory by the Choctaw Nation. Our contention is that said appeal was void for want of jurisdiction of the United States Court over the subject matter. This contention is based upon the general rule of law that jurisdiction of the subject matter is the power to deal with the general abstract question and to hear particular facts in any way relating to that question and to determine whether or not they are sufficient to invoke the exercise of that power. In other words, it is the power of a tribunal to deal with the general subject matter involved in the action; it is not confined to cases in which the particular facts constitute a good cause of action, but it includes every issue within the scope of the general power vested in the tribunal by the law of its organization to deal with the abstract question. A tribunal cannot exercise any greater scope of power than is given it by the law creating it, and the source and mode of acquiring jurisdiction of the subject matter is to be sought for in general nature of the powers of the tribunal, or in its authority specially conferred. The jurisdiction of a tribunal is conferred upon it by the sovereign authority which organizes or establishes it, and it cannot be acquired in any other manner, and the exercise of greater powers than are thus conferred is a mere usurpation of such power and every act thereunder is a nullity.

In the first place, the only jurisdiction the Commission had under the act of June 10, 1896, was to make a roll of such per-

sons whose names appeared upon the tribal rolls then existing, and
their descendants born since said rolls were made, and further
to admit all persons to enrollment who could prove their right there-
to but whose names were not to be found upon the tribal rolls. The
first mentioned was a mandatory order and had the Commission failed
or refused to place upon the roll it was preparing, the names of
those found upon the then existing tribal rolls it would have
violated its duty and its refusal would have in no way barred
the applicant so refused from enrollment later; its act would
have been void for want of jurisdiction over the subject matter, as
the only jurisdiction possessed by the Commission in such cases was
to enroll----it could not purge the tribal rolls of any name found
thereon or go into the merits of the parties citizenship whose name
was found upon said tribal rolls.

The jurisdiction conferred upon the United States Courts in
the several District of Indian Territory in these matters under the
act of June 10, 1896, was in the nature of an appeal from the deci-
sion of the Commission ^{the} in cases where applicants' names were not
upon the tribal rolls. It was conferred in the following language:
"Provided, That if the tribe, or any person, be aggrieved with the
decision of the tribal authorities or the Commission provided for in
this act, it or he may appeal from such decision to the United
States district court"

In the case at bar there was no "decision" of the Commission,
there could be none under the law as the name of the applicant was
to be found upon the tribal roll and there was no alternative for
the Commission but to enroll her upon the roll it was ordered to
prepare; therefore there could be no appeal to the United States
Court--no lawful appeal--the appeal that was taken was void because
the United States court did not have jurisdiction over the subject
matter.

9 So much for the question of jurisdiction. Now comes the ques-
tion Has the Commissioner to the Five Civilized Tribes any authority

to determine the right of this applicant to enrollment at this time. We respectfully direct your attention to the Departmental decision in the Wiley Adam case, and the Loula West case for answer to said question.

The fact that there appears upon the tribal roll opposite the name of the applicant the words "No citizen" "Not entitled to draw" in no way effects her tribal enrollment. There is nothing upon said roll, neither have the Choctaw authorities offered any evidence to show that said notations were made with authority, or that a tribunal ever passed adversely upon the claim of the applicant subsequent to her enrollment and directed that her name be stricken from said roll. On the other hand, every circumstance points to the fact that said notations were not placed upon said roll with authority. The Notation "No citizen" is written in pencil and looks too freshly written to have been placed there in 1893. It is a well known fact that the Commission, through its members or by their employees, often made pencil notations upon tribal rolls based upon information received in the course of conversation with various persons, or upon notations appearing upon said tribal rolls at the time they came into the possession of said Commission and it is reasonable to conclude that said pencil notation was made by some one connected with the Commission to the Five Civilized Tribes. It is reasonable to conclude that it did not appear thereon at the time applicant Manervia F. Swadley went to Atoka to draw her money under said roll for she testifies, and said testimony is uncontradicted, that at that time the only notation appearing upon said roll was the one "Not entitled to draw"

As to said latter notation, a close examination thereof will disclose the fact that it was not written at the time the name of the applicant was written, or at least, was not written by the same person for the letters "e" and "d" as appearing in the name of the applicant and as appearing in the notation are so differently con-

structed as to convince anyone of the fact that they were written by different persons. The applicant's uncontradicted testimony as well as that of her husband clearly show that there was an enemy of the applicant at the bottom of said notation. William Harrison tried to discount the \$103 payment that was coming to the applicant, offering \$75 for same and upon refusal of applicant to sell he announced his intention to prevent her from drawing her money and did enter a protest which secured the notation referred to. There was no tribunal of the Choctaw Nation sitting between the time the 1893 Leased District Payment Roll was made up and the time the payment was made ^{under} it which had the special jurisdiction to try citizenship cases, other than the National Council, at least the compilation of Choctaw laws published in 1894 fails to disclose such a tribunal and there has not been produced before the Commission any act of said Council depriving the applicant Manervia F. Swadley of her citizenship. The Choctaw laws fail to disclose the fact that the leased district payment commission of the Choctaw Nation had judicial power to try a disputed citizenship claim or to render a judgment of non-franchisement; in fact the attorneys for the Nation concede that said commission did not have such power (See decision of the Department in the case of Kelo Brown et al rendered June 9, 1905- I.T.D. 8600-1903 & 5326-1904). So if ^{said} notation was made by said Commission it certainly had no binding effect and is absolutely void.

The question of the application of William T. Swadley for enrollment as a citizen by intermarriage of the Choctaw Nation needs but little argument, for it necessarily follows that if his wife, Manervia F. Swadley is entitled to enrollment as a citizen by blood, he is entitled to enrollment as a citizen by intermarriage for the reason that he was married to her first under a Texas license in 1871, prior to the passage of the intermarried act of the Choctaw Nation in 1875, and then married her again under a Choctaw license in 1896. His residence in the Nation and his application for en-

rollment are all within the law. The appeal in his case from the decision of the Commission enrolling him in 1896, by the Choctaw Nation to the United States Court was without authority and void for the reason that the marriage under tribal law was in itself an enrollment and the same duty devolved itself upon the Commission in 1896 to enroll him that did upon it to have enrolled the applicant, Manervia F. Swadley. The Report of the Commission of December of December 31, 1901 in the case of Mary Ann Jones establishes the right of the applicant, William T. Swadley to be enrolled as a citizen by intermarriage in the event his wife is entitled to be enrolled as a citizen by blood.

We come now to the question of the application for the enrollment of John W. W. Swadley, a legitimate child of the applicants Manervia F. Swadley and William T. Swadley, and in that connection we desire specially to direct attention to the act of June 10, 1896 and the act of June 7, 1897, which, taken together, define what was intended by the words "rolls of citizenship" in the former act, in other words, that thereby was meant the last authenticated rolls of each tribe, and the descendants of those appearing on such rolls.

Quoting from the Departmental decision in the case of Mary Elizabeth Martin (I.T.D. 11856-1904 & 3691-1905) we find the following: "By this act, descendants of persons on the roll were defined and regarded as on the roll whereon their parents were found whether themselves actually on such roll or not and though born after the roll was made."

The testimony in this case shows that the applicant John W. W. Swadley was of age at the time his mother went to Atoka to be enrolled by the Choctaw tribal authorities on the 1893 Choctaw leased District Payment Roll, and that he had gone to the home of his grand-father, who was ill and therefore was not present when said roll was made up. This accounts for his name not appearing thereon. But under the ruling of the Department above quoted from, his name

is upon said roll to all intents and purposes as though it were written there, because he is the descendant of a person on the roll. His enrollment in 1896 by the Commission to the Five Civilized Tribes was proper, and the appeal taken by the Choctaw Nation to the United States Court for the Central District, Indian Territory, as to him, was void for want of jurisdiction of said Court over the subject matter, as was the appeal taken in the cases of his parents. The only act that the said Commission could perform under the law as to him it did-- place his name on the roll it was preparing, and no power on earth could, under the law, prevent said enrollment lawfully.

WHEREFORE, The premises considered, we believe that the applicant Manervia F. Swadley is entitled to enrollment as a Choctaw by blood because she made application in due time and her name appears on the tribal roll, being their neither through fraud or without authority of law. We believe the applicant William T. Swadley should be enrolled as a citizen by intermarriage of the Choctaw Nation for the reason that he made application in due time, that he married his Choctaw wife in accordance with Choctaw law, and maintained a bona fide residence in the Choctaw Nation on June 28, 1898. We believe the applicant, John W. W. Swadley should be enrolled because he is the legitimate issue of duly enrolled parents and the record shows that he was a resident of the Choctaw Nation on June 28, 1898 and that an application was made for his enrollment in proper time. We therefore pray that an order issue placing the names of these applicants upon the rolls now being prepared by the Commissioner to the Five Civilized Tribes in conformity with the applications made.

Respectfully submitted,

(signed) Chas. von Woise

Attorney for applicants.

United States of America
Indian Territory
Southern District

I Chas. von Weise upon my oath state that I delivered to Mansfield, McMurray & Cornish, attorneys for the Choctaw & Chickasaw Nations at South McAlester, I. T. a true and correct copy of the within appeal.

(signed) Chas. von Weise.

Subscribed and sworn to before me this 20th day of August 1906.

(signed) C. P. Hoggard

(SEAL)

Notary Public.

ENDORSED:

In re Application for the enrollment of Manervia F. Swadley et al as Choctaw citizens.

Brief & Argument on behalf of applicants.

Department of the Interior
Commissioner to the Five Civilized Tribes

F I L E D

Aug 29 1906

Tamm Bixby, Commissioner.

Chas. von Weise.

AFFIDAVIT OF SERVICE

United States of America,
Indian Territory,
Central District.

In re, application of
Manervia F. Swadley, et al.

I, Charles von Weise, upon my oath state, that I served the Choctaw & Chickasaw Nations with a true copy of the attached special motion and exhibits thereto, Petition and exhibits thereto and brief and argument, by mailing to Mansfield, McMurray & Cornish, at South McAlester, I. T. a letter contained said copy, which letter was by me delivered to the postmaster at Ardmore, I. T. on June 1st, 1906, for registration, and was by said postmaster so registered as will more fully appear from the registry receipt hereto attached.

(Registry receipt attached)

Charles von Weise.

Subscribed and sworn to before me the first of June,
1906.

J. H. Carlock,
Notary Public.

SEAL.
Commission expires April 2, 1908.

(Endorsed on back as follows)

In re application of Minervia F. Swadley, et al. for enrollment as citizens of the Choctaw Nation.

Special motion, Exhibits, Petition, Brief and Argument.
Charles von Weise,
Attorney for applicants.

DEPARTMENT OF THE INTERIOR.
Commission to Five Civilized Tribes/
F I L E D

JUN 14 1906

Tams Bixby, Commissioner.

Department of the Interior/
RECEIVED

JUN 6 1906

Enc. No. 1. of No. 6395.
Indian Territory Division.

Marriage License.

Choctaw Nation

Apr

Atok County

To any person authorosed by law to solemnse marriage:-

Greeting.

You are hereby commanded to solemnze the Rite and publish the Banns of Matrimy betwen Mr W F Swadly of Coal Gate in the Choctaw Nation aged _____ years, a citizen of the United States and Miss Manerva Hunter a citizen of the Choctaw Nation, in the Choctaw Nation, aged _____ years, according to the laws, and do you official sign and retun this license to the parties therein named.

Witness my hand and official seal, this 7th day of September 1896.

Signd.

I. Downing

. Ck of County Court.

Certificate of Marriage.

Choctaw Nation

County

I G. F. Mathews a Minister of Gospel do hereby certify that on the 7th day of Septmbr 1896 I did duly and according to law, or commanded in the feregoing licens, solemnise the Rite of and publish the Banns of Matrimy between the parties herein named.

Witness my hand the 7th dy of Sept 1896

G. F. Mathews

Minister of Gospel.

(SEAL)

INDIAN TERRITORY
CENTRAL DISTRICT.

I, E. J. Fannin, Clerk of the United States Court
for the Central District do hereby certify that the foregoing &
true and correct copies of certain papers on file in my Office
in the case of Minerva Swadley vs. The Choctaw Nation, in citi-
zenship case number 228.

Witness my hand this 12th day of April 1906.

E. J. Fannin
Clerk U. S. Court

By J. B. Rose,
Deputy.

(SEAL)

"Exhibit 'B' to Special Motion"

(SEAL)

I hereby certify that the foregoing is a true and correct copy of the original filed with the Data commission.

I: Downing B A

NOTICE.

Chas von Wies

Indian Territory
~~Southern~~ District

Letter No. 278 P. O., Ind. Ter.

Received for registration, 190, from

addressed to

Postage prepaid **Denise 10/1/55** Day of August, 1908

Notary Public.

To Mansfield, McMurray & Gornish,
Attorneys for the Choctaw & Chickasaw Nations:

Respectfully Submitted,
C. von Weise
C. O. T. I. C. E.

You are hereby notified that I will on Thursday August 16th 1906
at 9 o'clock A. M. or as soon thereafter at the Court House
to the Five Civilized Tribes will permit, a hearing to be held
as I have been sworn in the United States to do so on behalf of
the United States or otherwise as directed by the United States
Attorney General of the Choctaw Nation; said hearing to be held at the
office of the Commissioner to the Five Civilized Tribes in Wash-
ington, Ind. Terr., on the date above mentioned.

Charles von Weise

Attorney for applicants.

Indian Territory
Southern District
Western

I, Charles von Weise on oath state that I mailed
a letter on August 4, 1906 addressed to Mansfield, McMurray &
Gornish, attorneys for the Choctaw & Chickasaw Nations at South
Mailester, I. T.; that said letter contained a true and correct
statement of the facts as will more

Charles von Weise

Subscribed and sworn to before me this *16th* day of August, 1906

Edward W. Chappell
Notary Public.

To Mansfield, Maturay & Cornish,
Attorneys for the Trust

I, [Name], being of the County of [County], State of [State], do hereby certify that [Name] is the [Title] of the [Organization] and that [Name] is the [Title] of the [Organization].

Witness my hand and seal this [Date] day of [Month], [Year].

Washington, D. C., August 9, 1909.

D-7192

Choctaw Citizenship,

File 5-51

Wm. T. Swadley et al.

The Commissioner of
Indian Affairs.

Sir:-

The Department has considered your office report of May 4, 1909, relative to the enrollment of Wm. T. Swadley, Minerva F. Swadley, and John W. W. Swadley, as citizens of the Choctaw Nation.

It appears that the name of Wm. T. Swadley was on a roll of Choctaw citizens by intermarriage (No. 1534) approved by this Department February 19, 1907, and that his name was stricken therefrom, without notice or opportunity to be heard, March 4, 1907. Under the decision of the Supreme Court of the United States in Garfield v. Goldsby (211 U. S., 249), it now appears that the Secretary of the Interior was without authority thus to cancel his enrollment. He therefore enjoys the status of Choctaw citizenship, with all its rights, and you will consequently cause to be erased from the rolls

in your custody the notation purporting to cancel his name therefrom. A proper entry thereof will be:

Words and lines purporting the cancellation
erased by authority of departmental letter of August 9, 1909. (File 5-51)

By letter of even date, the Commissioner to the Five Civilized Tribes is instructed to take similar action concerning the copy of the rolls in his custody; and this letter is also authority for like action as to the rolls in the custody of the Secretary of the Interior.

The name of John W. W. Swadley does not appear on any approved roll, and his status has never been determined in his favor in any way or form. No further action can or will be taken as to this applicant.

It further appears that the name of Minerva F. Swadley has never been on any roll approved by the Department. It is true that a decision that she was entitled to enrollment was rendered by the Commission December 13, 1906, and that this decision was affirmed by the Secretary of the Interior February 16, 1907. Her name was placed upon a schedule of citizens by blood of the Choctaw Nation, but this roll was disapproved by the Secretary March 4, 1907. Unlike Wm. T. Swadley (and John E. Goldsby), her name was never on an approved roll and unlike the case of John W. W. Swadley, ~~above~~, it does appear that her right to go on such a roll was once adjudicated in her favor.

The final roll, however, is decisive of her rights. No allotment or other citizenship rights attach unless the name of claim-

ant appears upon an approved roll (Oscotaw and Chickasaw agreement, 32 Stat., 641, sec. 35). The roll must be approved by the Secretary of the Interior (id., sec. 35) in order to be part and parcel of the final rolls of citizens, upon which allotment of land and distribution of tribal property is to be made. And, in the enrollment of citizens, the Secretary became functus officio after March 4, 1907 (act of April 26, 1906, 34 Stat., 137), having "no jurisdiction to approve the enrollment of any person after said date."

Notwithstanding the favorable interlocutory step consenting that her name might be placed upon a roll, the ultimate disapproval of such a roll constitutes the final judgment of the Department as to her status. The judicial functions of the Secretary, in this behalf, expired by statutory limitation March 4, 1907. He may not now augment the roll by the addition of her name. Congress left no room for a quasi pro tunc decree: the Secretary's jurisdiction absolutely ceased on the last mentioned date. Now to order her name on the roll would involve a new exercise of judgment in reversal of that evidenced by the disapproval, March 4, 1907, of the roll on which her name appeared. Congress saw fit to deprive the Secretary of power after that date, and her recourse, if wronged thereby, is to the legislative rather than the administrative branch of the Government.

The case of Serena Bullocks et al., decided by the Department August 15, 1907, referred to by you, presented somewhat different conditions. There the Department took no affirmative action disapproving a roll upon which the names of the parties to that case appeared. There was simply a clerical omission to carry out the favorable decision in failing to transcribe the names upon a roll for approval. Here the names were placed upon a roll, but the Department, in the exercise of duty of devolving upon it, concluded, before final action was taken, that Hiner-

va Swadley was not entitled to enrollment as a freeborn citizen, and so declared, while the matter was yet within the Secretary's jurisdiction, by disapproving the roll upon which her name was found. Without further comment upon said decision of August 15, 1907, it is sufficient to say that it does not control the present case.

No further action will be taken in the case of Minerva F. Swadley.

The papers are returned herewith.

Very respectfully,

(Signed) Jesse E. Wilson,

Assistant Secretary.

Commissioners

Henry L. Dawes,
Frank C. Armstrong,
Archibald S. McKennon,
Thomas B. Cabinnis,
Alexander B. Montgomery,

H. M. Jacoway, Secretary

DEPARTMENT OF THE INTERIOR.

Commission to the Five Civilized Tribes.

819

Fort Smith, Ark., Dec. 4, 1896.

W. T. Swadley

vs

Choctaw Nation

Filed Sept. 7, 1896, Answer filed
applicant admitted a citizen by inter-
marriage

I, H. M. Jacoway Jr., Secretary, do hereby certify that the
above and foregoing as a true and correct copy of the Choctaw
Record C., page 337 of the Commission to the Five Civilized Tribes.

Given under my hand and XXXX official
signature this the 13th day of Feby.
1897 .

H. M. Jacoway Jr.,
Sec .

By Henry Stump

Endorsed on back: "#235 FILED-Feby 27, 1897-- P.B. Stoner, Clerk"

=====

Indian Territory
Southern District

I, Charles von Weise, upon my oath state that
the foregoing is a true and correct copy of xxx a document now
on file in the office of the Clerk of the Court for the United
States Court in the Central District, Indian Territory, in xxx
Citizenship case No. 235., the same having been copied and com-
pared by me.

Charles von Weise
1st June

Subscribed and sworn to before me this 31st of May 1906

J. H. Carlock,
Notary Public.

(SEAL.)

Exhibit C re special motion

Commission expires
April 2/1908

DEPARTMENT OF THE INTERIOR.

In re,

Application for the enrollment of Manervia F. Swadley as a citizen by blood of the Choctaw Nation.

Application for the enrollment of William T. Swadley as a citizen by intermarriage of the Choctaw Nation.

Application for the enrollment of John W. W. Swadley as a citizen by blood of the Choctaw Nation.

PETITION.

Now comes Manervia F. Swadley, William T. Swadley and John W. W. Swadley and petition the Honorable Secretary of the Interior to enroll them as follows: Manervia F. Swadley and John W. W. Swadley as citizens by blood of the Choctaw Nation, and William T. Swadley as a citizen by intermarriage of the Choctaw Nation, for the following reasons to-wit:

I.

That Manervia F. Swadley is a half blood Choctaw and has resided in the Choctaw Nation all her life, having been born in Jackson County, Choctaw Nation in 1853 as the lawful issue of a full blood Choctaw father and a white mother.

II

That the name of Manervia F. Swadley appears on the 1893 Choctaw Leased District Payment Roll for Atoka County as "Manervia Swadley"

III

That Manervia F. Swadley and William T. Swadley, a white man, were lawfully married on November 11, 1871, under a Texas license, and was remarried on September 7, 1896 in accordance with the Choctaw Law under a Choctaw license.

IV

That John W. W. Swadley is the legitimate issue of the union between Manervia Swadley and William T. Swadley.

V

That application was made in due form by petitioners asking for their enrollment as citizens by blood and intermarriage respectively, of the Choctaw Nation, which said application was made to the Commission to the Five Civilized Tribes on September 7, 1896, under the Act of June 10, 1896 (29 Stats., 321).

VI

That the appeal to the United States Court for the Central District Indian Territory by the Choctaw Nation on February 2, 1897 from the decision of the Commission admitting applicants to citizenship in the Choctaw Nation as aforesaid, and the subsequent decision of said court reversing the decision of the Commission was void for want of jurisdiction over the subject matter.

W H E R E F O R E , The premises considered the petitioners pray that an order be made directing their enrollment as follows: Manervia F. Swadley as a citizen by blood of the Choctaw Nation; William T. Swadley as a citizen by intermarriage of the Choctaw Nation, and John W. W. Swadley as a citizen by blood of the Choctaw Nation.

Respectfully submitted,

Charles von Weise

Attorney for petitioners

United States of America
Central District
Indian Territory

We, Manervia F. Swadley, William T. Swadley and John W. W. Swadley, upon our oath state that we are the identical persons mentioned as petitioners in the foregoing petition; that we have read, or heard read, the statements therein contained, and the same are true as we verily believe.

Witnesses to mark;-

Manervia ^{her} X Swadley
mark

M. Henders.
J. H. Carson.

William Swadley,
John W. W. Swadley.

Subscribed and sworn to before me this 2nd day of April, 1906.

Theo von Keller.

Notary Public.

Cent' Dist. Ind. Terr.

SEAL)

My commission expires Jan. 30th, 1910.

APPLICATION FOR CITIZENSHIP

INDIAN TERRITORY

ATOKA COUNTY.

Before me the undersigned a Notary Public this day personally appeared Minerva Swadley who after being duly sworn states as follows:

I am 42 years of age and a citizen of the Choctaw Nation by blood. I am a daughter of Wm. Hunter and Martha Hunter both citizens of the Choctaw Nation by blood. I was born in the Indian Territory and have lived here nearly all my life. I married my present husband W. T. Swadley in November 1871. I am enrolled on the rolls of the Choctaw Nation as a citizen. I was entered as a Choctaw in the last rolls also when the Least District Land money was paid in 1894. When I went to draw my money in Atoka I was told I could not draw it or I was not a citizen and was shown the roll books. My name was there and under it was written "No citizen, Not entitled to draw" I have traced the matter up and find that the party who entered the protest against me was Wm. Harrison a citizen of the Choctaw Nation by blood and with whom my husband had trouble with a short time before this. Wm. Harrison was an influential man here at that time. For further proof that I am a Choctaw I beg to refer to the certified copies of affidavits of Vina Franklin and Bob Roberts. Bob Roberts Indian name being Ikebuska.

I am duly recognized as a Choctaw citizen and my rights have never been disputed only by the said Wm. Harrison. I further beg that my children be also registered. Their names are as follows: J. W. Swadley, 23 years old, single

A. Rose Swadley now Fulcom.

Witness my hand this 5th day of September 1896

Witness

Victor Ray, Jas. A. Bogy.

Sworn and subscribed before me this 5th of September 1896

My commission expires 2nd Nov 1899. H. F. V. Perry.

her

Minerva

X Swadley

mark.

(SEAL)

Commissioners.

Henry L. Dawes,
Frank C. Armstrong,
Archibald S. McKennon,
Thomas B. Cabinnis,
Alexander B. Montgomery,

H. M. Jacobway, Secretary.

**DEPARTMENT OF THE INTERIOR
Commission to the Five Civilized Tribes.**

Fort Smith, Ark., Dec. 5, 1896.

1080.

Minerva Swadley, et al.,

v

Choctaw Nation.

Filed Sept. 7, 1896. Answer filed.
Minerva Swadley an intermarried
citizen and J.W.Swadley and A.Ross
Fulsom citizens by blood, admitted.

H.T.V.Perry, Coalgate.

I, H. M. Jacobway Jr., Secretary, do hereby certify that the
above and foregoing is a true and correct copy of Choctaw record
C., page 380, of the Commission to the Five Civilized Tribes.

Given under my hand and official
Signature this 13th day of Feby
1897.

Henry Stump,
Act. Secretary.

(COPY)

In matter of Petition and memorial of Minerva Swadley as a citizen by blood of the Choctaw Nation.

Indian Territory
Atoka County.

Before me the undersigned a Notary Public this day personally appeared Silas Lawrence who after being duly sworn states as follows:

I am 56 years of age and a citizen of the Choctaw Nation by blood and duly ^{recorded} registered and enrolled as such. My postoffice address is Coalgate, Indian Territory. I am personally acquainted with the applicant Minerva Swadley nee Hunter. Have known her about thirty years. I was well acquainted with her father Wm Hunter and Martha Hunter her mother both citizens of the Choctaw nation by blood. The Hunters were called Huntubby by the Indians and called Hunter by the missionaries. J. R. Plummer one of the board who registered the applicant as a Choctaw told me Wm Harrison had entered a protest against her drawing the Leased District Land money in 1894 owing to some trouble said applicant's husband had had with said Wm Harrison.

Witness my hand this 5th day of September 1896.

his
Silas X Lawrence
mark

witness

Victor Bey
Jos. A. Bogy

Sworn and subscribed before me the 5th day of September 1896.

H. T. V. Perry
N.P.

My commission expires 2 Moth 1899

(SEAL)

(COPY)

Bob Roberts a citizen of Atoka County, Choctaw Nation and of lawful age testified as follows in reference to the citizenship of Mrs. Minerva Swadley, nee Miss Minerva Hunter. I am ninety-three years old. I have known her people from way back yonder. She is a daughter of Wm Hunter who was in duty all Choctaw. His father was a full blood Choctaw named Hunter in English. Mrs. Swadley's father was an uncle of young Thos. Hunter who lives near Caddo. I have known this woman all her life and know her to be a Choctaw.

His
Bob X Roberts.
Mark

Sworn to and subscribed before me this the 30th day of August 1893.

B. S. Smiser.

County Clerk, Atoka
County.

Entered and recorded in my office this the 30th day of August, 1893.

B. S. Smiser.

County Clerk, Atoka County.

I Sam Downing County Clerk of Atoka County do hereby certify that the above is a true and correct copy as recorded in the Clerk's office of Atoka County, C. Nation, Book 1, page 534.

Sam Downing,

County Clerk

Atoka County.

(SEAL)

(COPY)

Choctaw Nation

Atoka County.

Mrs. Levina Franklin, a citizen of Atoka County, Choctaw Nation, and of lawful age testified as follows in reference to the citizenship of Mrs. Minerva Swadley nee Miss Minerva Hunter; I have known Mrs. Swadley ever since she was a child. Her father's name was William Hunter who was a half Choctaw and who, lived near Cadde and was an uncle of Young Thos. Hunter now living near Cadde. His mother was also part Choctaw. The family has always been recognized as Choctaws and have many full blood relatives.

Mrs. Leva ^{her} X Franklin
mark

Subscribed and sworn before me in this the 30th day of August 1893.

B. S. Smiser.

County and Probate Clk,
Atoka County. (SEAL)

Entered and recorded in my office this the 30th day of August 1893.

B. S. Smiser, County Clerk.

I Sam Downing County Clerk of Atoka County do hereby certify that the above is a true and correct copy as recorded in the Clerk's Office of Atoka County, Choctaw Nation, Book 1, page 533.

Sam Downing.

Atoka County Clerk.

IN THE UNITED STATES COURT FOR THE CENTRAL DISTRICT OF
THE INDIAN TERRITORY, AT SOUTH McALESTER.

Minerva Swadley, Plaintiff.

vs.

Petition for appeal.

The Choctaw Nation, Defendant.

The Choctaw Nation your petitioner, represents that heretofore, to-wit on the ___ day of _____ Minerva Swadley presented her claim to the Dawes Commission to be admitted as a citizen of the Choctaw Nation and thereafter on the ___ day of December 1896, said Dawes Commission, by its order, admitted said Minerva Swadley to citizenship in the Choctaw Nation.

That said Minerva Swadley based her claim to citizenship upon the fact that she was descended from William Hunter and Martha Hunter; and alleged that said William and Martha Hunter were citizens of the Choctaw Nation by blood .

But your petitioner would show that it is not true that said William and Martha Hunter were citizens of the Choctaw Nation and alleges that they had no Choctaw Indian blood.

That the Dawes Commission erred in holding that this plaintiff was of Choctaw blood and entitled to citizenship.

Wherefore, your petitioner makes this its appeal, and prays that the order of the Dawes Commission, admitting said Minerva Swadley to citizenship be set aside, and that he may be declared by this court to be a non-citizen of the Choctaw Nation.

Wm. M. Cravens,

Stuart, Gordon & Hailey.

Attorneys for the Choctaw Nation.

Form No. 260.

THE WESTERN UNION TELEGRAPH COMPANY.

INCORPORATED
23,000 OFFICES IN AMERICA. CABLE SERVICE TO ALL THE WORLD.

ROBERT C. CLOWRY, President and General Manager.

Receiver's No.

Time Filed

Check

Government Paid.

SEND the following message subject to the terms
on back hereof, which are hereby agreed to.

February 23, 1907.

Secretary of the Interior,
Washington, D.C.

December fifteenth nineteen hundred six this office transmitted report in Choctaw Enrollment case of Manervia F. Swadley, et al., together with decision of same date granting application for enrollment of Manervia F. Swadley as citizen by blood and William T. Swadley as citizen by intermarriage of Choctaw Nation and refusing application for enrollment of John W. W. Swadley as citizen by blood. By Departmental letter of February sixteenth thirty one thirty six nineteen hundred seven there was transmitted approved opinion of Assistant Attorney General dated February eleven in which it is stated that the action of the Commissioner as to Manervia F. Swadley and her issue should be affirmed and also that her husband is entitled to be enrolled as intermarried citizen.

READ THE NOTICE AND AGREEMENT ON BACK.

Form No. 260.

THE WESTERN UNION TELEGRAPH COMPANY.

INCORPORATED

23,000 OFFICES IN AMERICA. CABLE SERVICE TO ALL THE WORLD.

ROBERT C. CLOWRY, President and General Manager.

Receiver's No.

Time Filed

Check

B

SEND the following message subject to the terms
on back hereof, which are hereby agreed to.

In Departmental letter of February nineteenth I am directed to
advise you with said opinion of A. C. that Attorney General
should be applied to in this case. The wisdom of opinion of
A. C. that Attorney General I have ascertained whether he intends
that John W. W. Swadley who is said son of Hesteria T. Swadley
and son of John W. Swadley should be recalled as directed by
Departmental letter. Please advise immediately by wire as to
action to be taken in a recall of John W. W. Swadley.

Sincerely,

Commissioner.

READ THE NOTICE AND AGREEMENT ON BACK.

D C N 277-1909

W.S.A.

J.W.H.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

February 25, 1909.

The Commissioner
of Indian Affairs.

Sir:

The Department has had under consideration for some time a schedule, prepared in the office of the Commissioner to the Five Civilized Tribes, which was originally filed in your office December 30, 1908, as No. 88228, purporting to be a list of persons whose names were stricken from the approved rolls of citizens of the Five Civilized Tribes without prior notice. Action has already been taken by the Department upon a majority of the names mentioned in said list, but there is a comparatively small number of cases as to which the information before the Department is not sufficiently complete to warrant present action.

The names of the parties to cases of the latter class having applications for enrollment as citizens of the Choctaw Nation are listed below, and you are requested to cause further report to be made as to each, calling upon the Commissioner to the Five Civilized Tribes, if necessary, for additional information and papers.

It is also desired that the record in each of said cases be forwarded with separate report thereon.

CHOCTAWS BY BLOOD.

Name	Roll No.
Armstrong, Rebecca K.	16,057
Armstrong, Bonnie D.	16,056
Armstrong, Layton B.,	16,055
Armstrong, Mattie L.,	16,054
Padier, Ira	10,112
Turner, Martin Franklin,	15,369
Turner, Myrtle L.,	15,370

CHOCTAWS BY MARRIAGE.

Duer, Thomas W.,	1,556
Hyden, Georgia,	1,601
Hyden, Martha,	1,609
Marshall, Josiah T.,	1,341
Swadley, William T.,	1,634

In connection with Josiah T. Marshall, it should be shown whether his enrollment by the Department was based upon a marriage contracted subsequent to the decision against him by the Dawes Commission under the Act of June 10, 1896. The Department also desires to be advised, in connection with the case of William T. Swadley, what information, if any, is of record concerning Minerva F. Swadley.

Notwithstanding partial reports have been made heretofore, with varying degrees of completeness, it is desired that all material information affecting each case be brought together in

a single report showing particularly, --

1. What tribal recognition, if any, has been accorded the applicants, whether by enrollment, act of council, decree of court, or otherwise,
2. The action by the Commission (or Commissioner) to the Five Civilized Tribes, the Commissioner of Indian Affairs, and the Secretary of the Interior, together with the dates of such action.

NOTE: This information is desired in order that it may be apparent to what extent, if at all, the Department should now be governed by its ruling of August 15, 1907 (D-299), in the case of Serena Bullocks, et al.

3. What action, if any, was taken under the Act of June 10, 1896, (a) by the Commission to the Five Civilized Tribes, and (b) by the United States court,
4. Whether the case was appealed or transferred to the Choctaw and Chickasaw Citizenship court and, if so, whether specific judgment was rendered by said court,
5. Whether certificates of allotment or patents were issued, delivered, or recorded in favor of any of the applicants,
6. What attempt, if any, was made, directly or indirectly, to give the applicants and their heirs notice of the proceedings looking to the cancellation of

their names from the approved rolls; also what evidence is now available showing that such attempt was made.
7. Whom and for what reason did the Department strike or attempt to strike their names from the approved rolls.

Very respectfully,

(Signed) Jesse E. Wilson

Assistant Secretary.

Muskogee, Oklahoma, March 12, 1909.

Subject:
Report on Departmental
letter of February 25,
1909, as to William T.
Swadley and Minerva Swadley.

The Honorable,

The Commissioner of Indian Affairs,

Sir:

March 2, 1909 (Land 88226-1908, 16008-1909) the Indian Office referred to this office copy of Departmental communication of February 25, 1909, asking for a full report on certain Choctaw cases therein named, among which were William T. Swadley and Minerva Swadley.

Reporting in this matter I have the honor to advise that it appears from the records of this office that on September 7, 1896, in the case entitled Minerva Swadley, et al. versus the Choctaw Nation, 1896 Choctaw Citizenship Case Number 1080, original application was made to said Commission to the Five Civilized Tribes for admission to citizenship in the Choctaw Nation of Minerva Swadley and on December 3, 1896 said Commission rendered a decision admitting Minerva Swadley as a citizen by intermarriage of the Choctaw Nation. It appears, however, that in her original application she claimed the right to citizenship by blood in said nation.

It further appears that on September 7, 1896, in 1896 Choctaw Citizenship Case Number 819, William T. Swadley made application to the Commission to the Five Civilized Tribes for admission as a citizen by marriage of the Choctaw Nation under the provisions of the Act of Congress approved June 10, 1896 (29 Stat., 321), and on December 4, 1896, said Commission admitted the applicant as a citizen by intermarriage of the Choctaw Nation.

From these decisions of the Commission appeals were taken to the United States Court for the Central District of the Indian Territory, in case Number 228 on the citizenship docket, which court reversed the decision of the Commission and held that the applicants were not entitled to citizenship in the Choctaw Nation.

Said cause was not certified to the Choctaw and Chickasaw Citizenship Court, created under the provisions of the Act of Congress approved July 1, 1902 (32 Stat., 641), for a trial de novo.

The name of Minerva Swadley is found upon the 1893 Leased District Payment Roll of the Choctaw Nation, Atoka County and the name of William T. Swadley is not identified upon the tribal rolls of the Choctaw Nation in the possession of the Commissioner. It appears, however, that W. T. Swadley was married under a Choctaw license to Minerva Hunter September 7, 1896, and it appears from the testimony that he was first married to Minerva Hunter under a license issued in the state of Texas, some time

It further appears that on September 7, 1896, in 1896 Choctaw Citizenship Case Number 819, William T. Swadley made application to the Commission to the Five Civilized Tribes for admission as a citizen by marriage of the Choctaw Nation under the provisions of the Act of Congress approved June 10, 1896 (29 Stat., 321), and on December 4, 1896, said Commission admitted the applicant as a citizen by marriage of the Choctaw Nation.

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The name of Minerva Swadley is found upon the 1893 Leased District Payment Roll of the Choctaw Nation, Atoka County, and the name of William T. Swadley is not identified upon the tribal rolls of the Choctaw Nation in the possession of the Commissioner. It appears, however, that W. T. Swadley was married under a Choctaw license to Minerva Hunter, September 7, 1896, and it appears from the testimony that he was first married to Minerva Hunter under a license issued in the state of Texas, some time

of Indian Affairs recommended that the decision of the Commissioner to the Five Civilized Tribes of December 15, 1906, be reversed and that the applicants be not enrolled and on February 16, 1907 (I T D 374, 3136-1907) the Secretary of the Interior affirmed the decision of the Commissioner of December 15, 1906, favorable to the applicants.

January 19, 1907, a schedule of citizens by blood of the Choctaw Nation, containing the name of Minerva P. Swadley at Number 16113 thereon, was transmitted to the Department, which was disapproved by the Secretary of the Interior March 4, 1907, and on January 30, 1907, a schedule of Choctaws by Marriage containing the name of William T. Swadley at Number 1634 thereon was approved by the Secretary of the Interior February 19, 1907.

March 2, 1907, this office was notified by telegram to strike the names of William T. Swadley and Minerva P. Swadley, if enrolled, from the rolls of citizens by blood and marriage as of that date, in accordance with the opinion of the Attorney General of February 19, 1907.

It does not appear from the records of this office that any attempt was made, either directly or indirectly, to give notice to William T. Swadley of the proceedings looking to the cancellation of his name from the approved roll of Choctaws by Marriage.

It does not appear that selection of allotment of the lands of the Choctaw- Chickasaw country was made in the name of William T. Swadley .

I have further to report that the name of John W. W. Swadley, son of William T. Swadley and Minerva Swadley, appears with Minerva Swadley in the application made by her to the Commission to the Five Civilized Tribes under the act of Congress approved June 10, 1896, and the Commissioner to the Five Civilized Tribes, in his decision of December 15, 1906, declines to receive the application for the enrollment of John W. W. Swadley as a citizen by blood of the Choctaw Nation. Final action on this case was taken by the Department in its telegram of March 2, 1907, by which the action of the Commissioner is affirmed.

Respectfully,

Commissioner.

AB

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88225-08
16008-09
JBR

Department of the Interior,
Office of Indian Affairs,

Washington, D. C. Nov. 2, 1909.

Respectfully referred to the Commissioner
to the Five Civilized Tribes, for
early report as to matters not of record
as being in this office.

John Francis Jr.

Acting Chief Land Division.

1 copy of letter (16008)

LLB

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

J.W.H.
J.W.R.
W.C.P.

Address only
The Secretary of the Interior
File 5-51 (Choctaw)

March 23, 1909.

Commissioner to the Five Civilized Tribes,
Muskogee, Oklahoma,

Sir:

There is inclosed herewith for report and recommendation a letter dated March 19, 1909, from Messrs. Kappler & Merillat, of this city, relative to the enrollment of William T. Swadley, Minerva Swadley, and John W. W. Swadley as citizens of the Choctaw Nation and to the designation of allotments for them. You are requested to furnish a report in the matter, the same to be transmitted through the Indian Office in order that its recommendation may be forwarded to the Department therewith.

Reference is made in this connection to departmental letter of March 2, 1909 (File 5-51), relating in part to the Choctaw case of Minerva F. Swadley et al., and to departmental letter of March 15, 1909, containing general instructions with reference to reports in such cases, both addressed to you.

You will allow said persons, pursuant to the request of their attorneys, to designate allotments pending the determination of their citizenship rights, with the understanding that such designations are to be tentative only.

There is also inclosed a copy of a letter of even date to
Messrs. Kappler & Merrillat, relating to the subject.

Very respectfully,

(Signed) Frank Pierce

First Assistant Secretary.

Through the
Commissioner of Indian Affairs.

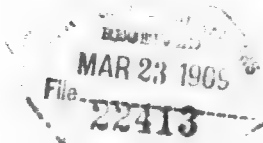
2 inclosures.

LLB

DEPARTMENT OF THE INTERIOR, J. W. H.
WASHINGTON.

File 5-51 (Choctaw)

March 23, 1909.



Messrs. Kappler & Merrillat,
Bond Building,
Washington, D. C.

Gentlemen:

Receipt is acknowledged of your letter of March 19, 1909, relative to the enrollment of William T. Swadley, Minerva Swadley, and John W. W. Swadley as citizens of the Choctaw Nation and to the designation of allotments for them.

According to your statements, it appears that the names of the said William T. Swadley was stricken from the approved roll of citizens of the Choctaw Nation; that a decision favorable to the enrollment of the said Minerva and John W. W. Swadley was rendered by the Secretary of the Interior, and a schedule was prepared containing their names, but that said schedule was, subsequent to the decision of the Secretary in their favor, marked "disapproved," and that the adverse action in their case, as well as that in the case of William T. Swadley, was taken without notice to them.

You now request and demand, as a preliminary step to the institution of a mandamus suit against the Secretary of the Interior, that said persons be restored to the status enjoyed by them prior to the adverse action taken in their cases.

There is not sufficient information before the Department at this time to enable it to take final action upon your request. Accordingly, the Commissioner to the Five Civilized Tribes will be called upon to render a report in the matter. Upon receipt of his report such action will be taken in the premises as may then be found advisable.

You request further that pending the disposition of their enrollment matters, said persons be allowed to designate allotments in the Choctaw Nation. This request is granted, with the understanding that such designations are to be tentative only and the Commissioner to the Five Civilized Tribes will be so advised.

Very respectfully,

First Assistant Secretary.

Law Offices of
Charles J. Kappler
Charles H. MerillatKappler & Merillat,

Telephone, Main2218
Cable Address
Kaplat

Attorneys and Counsellors at Law,
Bond Building
Washington, D. C. March 19, 1909.

The Honorable,

The Secretary of the Interior,
Washington, D. C.

Sir:

As attorneys for Minerva Swadley, William T. Swadley,
and John W. W. Swadley, we hereby make respectful request and
demand that you restore to the rolls in the Choctaw Nation
William T. Swadley, an intermarried citizen of the Choctaw
Nation, Roll No. 1634.

Mr. Swadley was put upon the approved roll February 19,
1907, and without any notice or hearing was stricken therefrom
March 4, 1907.

We also request and demand in behalf of Minerva Swadley
and John W. W. Swadley that you cause to be erased the letters
"Dis" before "Approved" from the rolls of the Five Civilized
Tribes, containing the names of Minerva and John W. W. Swadley,
and that you recognize them as having full right to enrollment
and allotment in the Choctaw Nation. The situation in their
cases is that a decision of the Assistant Attorney General,
approved by Secretary Hitchcock, was made in their favor and
orders were given for the preparation of rolls containing their
names. Intermediate the decision of the contest in their favor
and the formal clerical preparation of the rolls and the stamp-
ing of the same, the decision was reversed, 1907, in a

case to which the Swadleys were not parties, and with which they were not concerned, and as to which they had no opportunity or notice to present their case, which, it was held, governed the case of the Swadleys, and instead of following the practise theretofore the rolls, when the same came before the Secretary for approval, was stamped "Disapproved", instead of "Approved", and then marks of cancelation noted.

The Secretary of the Interior heretofore has held in the case of Serena Bullock et al. that where there was a contest over the right of enrollment and a decision was rendered directing the enrollment of the parties and ordering rolls prepared containing their names, that this constituted in law and equity an enrollment, and that if the formal act of marking the same "Approved" was not accomplished, that nevertheless the parties were upon the approved rolls.

This being the law of the tribunal, and the Supreme Court having decided that no person could be denied or deprived of his rights without notice and opportunity to defend, it would seem to follow that the Swadleys are entitled to a full recognition of their rights.

In this connection we may say as to the three foregoing that our instructions are in the event the demand be refused to bring suit, and we make the demand because the law as to mandamus requires the same with notice of the intention of the parties as a preliminary to legal proceedings.

In connection with the foregoing we respectfully request that you may cause the Commissioner to the Five Civilized Tribes to accept designations of allotments the three Swadleys desire to make at this time, in order that if they are successful they may not be injured by being compelled to select or accept such allotments as may be available at some later date. If our contention in their behalf is correct, they they at this time are members of the Choctaw Nation. We understand that in some instances you have given orders that where persons are claiming to be enrolled citizens, that the Commissioner to the Five Civilized Tribes shall accept designations or allotments desired by them the same to be simply designations which will give priority to the parties in the event they are finally successful in their contention as to their right to enrollment. We think that certainly *prim facie* the Swadleys are entitled to enrollment. They, however, do not desire by this application to commit your office upon this point, and we ask that the Swadleys may be permitted to designate upon the plat books or records of the Commissioner to the Five Civilized Tribes the lands they desire to select in allotment, subject expressly to determination as to whether they are enrolled. We are informed that they have heretofore applied for this right, but that the same has been denied them upon the ground, as to two of them, that the rolls were never actually approved containing their names.

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We would request that early advices may go to the Commissioner to the Five Civilized Tribes in accordance with this request, and that you will advise us of the same, in order that we may communicate the same to our clients.

Yours respectfully,

Kappler & Merrillat.

D 490-1909

Muskogee, Oklahoma, April 19, 1909.

Subject:

Reporting on Departmental
letter of March 23, 1909,
inclosing communication
from Kappler & Merillat,
relative to Wm. T. Swadley,
et al.

The Honorable,

The Secretary of the Interior,

Sir:

Receipt is hereby acknowledged of Departmental letter of March 23, 1909 (File 5-51 Choctaw), which was received at this office April 15, 1909, transmitting communication of March 19, 1909, from Messrs. Kappler & Merillat, Washington, D. C., in which they request the restoration of William T. Swadley, Minerva T. Swadley and John W. W. Swadley to the rolls of citizens of the Choctaw Nation, and directing this office to make full report in the matter and to allow tentative designations of allotments in behalf of these persons.

In response thereto I have the honor to advise that on March 12, 1909, in reply to Departmental communication of February 25, 1909, to the Indian Office, asking for reports on certain Choctaw cases, a full report was made to the Indian Office, stating the action of the Commission and the Commissioner

Secretary 2

to the Five Civilized Tribes as to William T. Swadley, Minerva W. Swadley and John W. W. Swadley, and, inasmuch as there are a number of requests made by the Department for reports as to Choctaw and Chickasaw cases still pending before this office, and the time consumed in the preparation of such reports is considerable, and for the further reason that the report of March 12, 1909, was submitted in reply to a request from the Department, through the Indian Office, this office has not taken time to prepare a second report in this case, but in the event a separate report is desired, the same will be made immediately upon receipt of advice to that effect.

The communication of Kappler & Merrillat of March 19, 1909, is herewith returned.

I have the honor further to advise that, in accordance with Departmental instructions of March 23, 1909, tentative designations of allotments will be received by this office upon the application of the persons above named.

Respectfully,

Commissioner.

AB 1-19

Through the Commissioner
of Indian Affairs.

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, March 26, 1906.

Charles von Weise,
Ardmore, Indian Territory.

Dear Sir:

Receipt is hereby acknowledged of your letter of March 10, 1906, asking if the names of Minerva Swadley, William T. Swadley William Swadley Jr., and Rose Swadley are found upon the 1893 leased district pay roll of the Choctaw Nation; you state that you have been legally employed by these persons to represent them and you desire to have your name entered as their attorney.

In reply to your letter you are advised that the names of William T. Swadley, William Swadley Jr. and Rose Swadley are not found upon the 1893 Choctaw leased district payment roll. The name of Minerva Swadley is found upon said roll, but opposite her name is the notation "not entitled to draw", and it would not appear that payment was made to her of said leased district fund.

You are further advised that it does not appear from the records of this office that application has been made by or on behalf of the persons herein named for enrollment as citizens of the Choctaw Nation.

Respectfully,
Wm. O. Beall

"Exhibit A to special motion"

Acting Commissioner.

Land
111707-1906
111707- "

DEPARTMENT OF THE INTERIOR
OFFICE OF INDIAN AFFAIRS
WASHINGTON.

(COPY)

January 7, 1907.

The Honorable,

The Secretary of the Interior,

Sir:

Referring to Departmental letter of December 27, 1906, (I.T.D. 15395-1906) requesting early action in the matter of the application of Manervia F. Swadley, et al., for enrollment as citizens of the Choctaw Nation, there is inclosed herewith a report of Commissioner Wixby, dated December 18, 1906, relative to the above case.

The Department, by letter of June 9, 1906 (I.T.D. 6298-1906), transmitted to the Commissioner to the Five Civilized Tribes for report and recommendation a so called "special motion" filed with the Department by Charles von Weise, attorney at law, of Ardmore, I. T., for permission to file an application for the enrollment of Manervia F. Swadley, W. T. Swadley and John W. W. Swadley as citizens by blood of the Choctaw Nation, and requested to be advised whether, in view of the records in the office of the Commissioner, any application has been made for the enrollment of the applicants, as above.

The Commissioner reports that it does not appear from the records in his possession that any formal application has ever been made for the enrollment of the applicants as citizens

of the Choctaw Nation; that it does appear, however, from the records in his office that on September 7, 1896, in the case entitled "Minerva Swadley, et al., vs Choctaw Nation" (1896 Choctaw Citizenship Docket, Case No. 1000) original application was made to the Commission, under the provisions of the Act of June 10, 1896 (29 Stat. L. 321), for admission to citizenship in the Choctaw Nation of Minerva F. Swadley and J. W. Swadley as citizens by blood of the Choctaw Nation; that on December 5, 1896, the Commission rendered its decision therein admitting Minerva Swadley as a citizen by intermarriage, and J. W. Swadley as a citizen by blood; that on September 7, 1896, in the case entitled "W.T. Swadley vs Choctaw Nation," 1896 Choctaw Citizenship Docket, Case No. 819) original application was made to the Commission, under the provisions of the Act of June 10, 1896 (29 Stat. L., 321), for admission to citizenship in the Choctaw Nation of W. T. Swadley as a citizen by intermarriage, and that on December 4, 1896, the Commission admitted the applicant as a citizen by intermarriage of the Choctaw Nation.

From the decisions of the Commission of December 4, 1896, and December 5, 1896, admitting the applicants to citizenship in the Choctaw Nation, appeals were taken to the United States Court for the Central District of Indian Territory, where the cases were consolidated under the title of Minerva Swadley, et al., vs Choctaw Nation" (Citizenship Court Case No. 226). On January 21, 1898, the Court rendered judgment excluding from the roll of the Choctaw Nation the names of the applicants herein. This cause was not certified to the Choctaw and Chickasaw Citizenship Court

created under the Act of July 1, 1902 (32 Stat. L. 641), for trial de novo.

The evidence in this case shows that Manervia F. Swadley was born in the Choctaw Nation in 1853; that she is the daughter of William Hunter (now deceased) and Margaret Ann Hunter (now deceased), both of whom were Choctaw Indians by blood, and that the applicant was a resident in good faith of the Indian Territory on June 28, 1898; that it further appears that William T. Swadley was, on September 7, 1896, married to Manervia F. Swadley, in accordance with the laws, customs and usages of the Choctaw Nation; that at the time of the marriage, both of the applicants were residents in good faith of the Nation and that they lived together continuously as husband and wife in the Nation from the date of the marriage up to and including September 25, 1902. The applicant, John W. W. Swadley, was born in the year 1872, and is the son of the applicants, Manervia F. and William T. Swadley.

The Commission says that an examination of the tribal rolls of the Choctaw Nation in his possession shows that Manervia F. Swadley is identified on the 1893 Choctaw Leased District Payment roll, Atoka County, No 947, as Manerva Swadley; that opposite her name appears the notation, "No citizen" in lead pencil, and "Not entitled to draw", the latter written in ink, and that the applicant did not draw in the 1893 Leased District money. He also says that John W. W. Swadley is not identified on any of the tribal rolls of the Choctaw Nation in the possession of his office.

On this state of facts, the Commissioner expresses the opinion that inasmuch as the Commission to the Five Civilized Tribes in 1896 was without jurisdiction in so far as they attempted to pass on the right to admission of the applicants, the action of the United States Court for the Central District of the Indian Territory of January 31, 1898, was also without authority of law and of no force or effect on the status of the applicants as citizens of the Choctaw Nation; that the applications made to the Commission in 1896 should be considered as continuing applications for their enrollment, and that Manervia F. Swadley should be enrolled as a citizen by blood of the Choctaw Nation, and William T. Swadley as a citizen thereof by intermarriage.

The Commissioner in thus deciding was apparently influenced by the argument of the counsel for the applicant, to the effect that, under the terms of the Act of June 10, 1896 (29 Stat. L., 331) the Commission was without any authority in law to purge the tribal rolls, but that a mandatory duty was imposed to enroll any person whose name appeared thereon, and having no option but to thus enroll, the consideration of the right of the applicant to enrollment was ultra vires and beyond the jurisdiction of the Commission. The Commission having no jurisdiction, counsel argues the court to which appeal was taken, could have none, and their judgment denying applicants right to enrollment was therefore void.

It appears that in this case the name of Manervia F. Swadley appeared on the 1893 Choctaw Leased District Payment Roll with the notations thereafter as above. The roll was in this condition when the Commission obtained possession thereof. Counsel argues that regardless of the this notation, the Commission was endowed with only the ministerial duty of enrolling the name of the applicant.

Under the terms of the Act of June 10, 1896, the rolls of the several tribes "as now existing" are confirmed.

While it is true that no authority was given the Commission to purge the rolls until the passage of the Act of June 28, 1898, (30 Stat. L. 495), yet the Commission under the Act of June 10, 1896, confirming the rolls as they then existed, certainly had power and were in duty bound to take notice of the condition of the rolls. A notation such as appeared after the name of the applicants was equivalent to elimination, just as a line drawn through the name would be, and it does not seem reasonable to assume that the law of 1896 intended the Commission to ignore alterations, erasures, or notations appearing on the roll, which clearly indicate an intention to eliminate a name therefrom.

The notation referred to in this case amounts to a virtual elimination of the applicant's name, and the roll was in this condition and had been made so by the tribal authorities at and prior to the time the Commission obtained possession thereof. That the applicant was considered by the latter as not being on the roll is shown by the fact that she did not draw any of

the leased district money.

The duty is imposed on the Commission by the Act of June 10, 1896, to give due force and effect to the rolls, usages and customs of each of the Nations. The authorities of the Nation having seen fit to eliminate from the roll the name of the applicant as they clearly had the right to do, the Commission had no power to inquire into that act nor to reinstate her on the roll, and the particular manner of elimination, so long as the intention clearly exists to so eliminate, should make no difference. The most convenient method of indicating such an intention is by erasure, notation, or cancellation.

It would obviously be impracticable, in preparing the rolls, to destroy a whole sheet for the purpose of eliminating a name appearing thereon and prepare a new one omitting the objectionable name. The common and most natural practice should be recognized in the consideration of such a question.

In view of the foregoing the Office is of the opinion that, owing to the clear intention of the tribal authorities to eliminate the name of Manervia F. Swadley from the roll in question, as indicated by the notations appearing after her name, and the fact that she was not allowed to draw leased district money as others were, who were on the rolls and against whose names no objectionable notations appeared, the Commission in 1896 not only had jurisdiction to consider her application to be added to the rolls, but were in duty bound to take notice of the notations referred to, and were without authority to reinstate her on the

-7-

roll before the consideration of her application as they would any other application by a person whose name was not on a tribal roll.

The commission having had authority in 1896, to consider the application, the District Court had jurisdiction of the case and its decision denying the application was final, and the case should therefore be dismissed.

It is recommended that Commissioner Rixby's decision granting the right to Manervia F. Swadley to enrollment as a Choctaw citizen by blood be reversed, and her application denied.

William T. Swadley, having no rights except such as accrue to him by reason of his marriage to Manervia F. Swadley, is not entitled to enrollment.

John W. Swadley was 22 years old in 1893 when the leased district roll was made up, and his name not appearing thereon, he did not in 1896, possess such tribal status as would entitle him to enrollment, and his application should be denied.

Very respectfully,

C. F. Larrabee,

Acting Commissioner.

A.J.W.-W.L.

Mem 259
Mem 260

Muskogee, Indian Territory, August 31, 1906.

Charles von Weise,
Attorney at Law,
Ardmore, Indian Territory.

Dear Sir:

In compliance with your request of August 23, 1906, there are inclosed herewith copies of the testimony taken in the matter of the application of Manerva F. Swadley et al. for enrollment as citizens of the Choctaw Nation, and also copy of the testimony in the matter of the application of George F. Peery et al. as citizens of the Chickasaw Nation, together with receipts therefor which please sign and return to this office.

Respectfully,

Mem. 259.
Mem. 260.

Acting Commissioner.

Lemo 259

Muskogee, Indian Territory, November 2, 1906.

Charles von Weise,

Attorney at Law,

Ardmore, Indian Territory.

Dear Sir:

Receipt is hereby acknowledged of your letter of October 29, 1906, asking the status of the application of Manervia F. Swadley et al. for enrollment as citizens of the Choctaw Nation.

In reply to your letter you are advised that no decision has yet been reached upon the question of whether or not application was made for the enrollment of these persons within the time provided by law. When a decision is reached you will be notified of the action taken therein.

Respectfully,

Commissioner.

Y
Memo.-259

Muskogee, Indian Territory, December 15, 1906.

William T. Swadley,
Coalgate, Indian Territory.

Dear Sir:

Inclosed herewith you will find a copy of the decision of the Commissioner to the Five Civilized Tribes, rendered December 15, 1906, granting the application for your enrollment as a citizen by intermarriage of the Choctaw Nation, and the application for the enrollment of Minerva F. Swadley, as a citizen by blood of said nation.

The decision, with the record of proceedings in the case, has this day been transmitted to the Secretary of the Interior for review. The final decision of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

Wm. T. Swadley
Commissioner.

Registered.
Incl. Memo.-259.

Memo.-259

Muskogee, Indian Territory, December 15, 1906.

Charles von Weise,
Attorney at Law,
Ardmore, Indian Territory.

Dear Sir:

Inclosed herewith you will find a copy of the decision of the Commissioner to the Five Civilized Tribes, rendered December 15, 1906, granting the application for the enrollment of Winerva F. Swadley as a citizen by blood, the application for the enrollment of William T. Swadley as a citizen by intermarriage, of the Choctaw Nation, and declining to receive the application for the enrollment of John W. W. Swadley as a citizen by blood of said nation.

The decision, with the record of proceedings in the case, is this day transmitted to the Secretary of the Interior for review. The final decision of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

SIGNED *Tamm E. E. E.*
Commissioner.

Incl. Memo.-259.

Registered.

Wuskogee, Indian Territory, December 15, 1906.

Mansfield, McMurray & Cornish,

Attorneys for Choctaw and Chickasaw Nations,

South McAlester, Indian Territory.

Gentlemen:

Inclosed herewith you will find a copy of the decision of the Commissioner to the Five Civilized Tribes, rendered December 15, 1906, granting the application for the enrollment of Minerva F. Swadley as a citizen by blood, the application for the enrollment of William T. Swadley as a citizen by intermarriage, of the Choctaw Nation, and declining to receive the application for the enrollment of John W. W. Swadley as a citizen by blood of said Nation.

The decision, with the record of proceedings in the case, is this day transmitted to the Secretary of the Interior for review. The final decision of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

SIGNED *Tamm Flinn*
Commissioner.

Incl. Memo.-259.

COPY.

Muskogee, Indian Territory, December 15, 1906.

The Honorable,

The Secretary of the Interior.

Sir:

The Department under date of June 9, 1906 (I.T.D. 6395-1906), transmitted to this office for report and recommendation, a so-called "special motion" filed with the Department by Charles von Weise, attorney at law, of Ardmore, Indian Territory, for permission to file an application for the enrollment of Manervia F. Swadley, W. T. Swadley and John W. W. Swadley as citizens by blood of the Choctaw Nation.

The Department calls attention to this office letter of March 26, 1906, addressed to Charles von Weise, Ardmore, Indian Territory, in which he was advised that

"... it does not appear from the records of this office that application has been made by or on behalf of the persons herein named for enrollment as citizens of the Choctaw Nation"

and requests special report as to whether any application for enrollment on behalf of the applicants was ever filed with the Commission to the Five Civilized Tribes under the Act of Congress approved

(2)

June 10, 1896 (29 Stats., 321), as alleged and as appears from exhibits attached to Mr. von Weise's petition.

The Department further states, in view of the approved opinion of the Assistant Attorney General of November 11, 1905, in the case of Joe and Billard Perry (I.T.D. 16132-1905), and the provisions of Section 1 of the Act of Congress approved April 26, 1906 (34 Stats., 137), that it desires my opinion, in view of the records of this office, whether any application has been made for the enrollment of the applicants as citizens of the Choctaw Nation.

Upon the receipt of Departmental letter of June 9, 1906, and a thorough consideration of Mr. von Weise's petition and the exhibits attached thereto, an examination was made of the petitions for citizenship in the Choctaw Nation filed with the Commission to the Five Civilized Tribes under the Act of Congress approved June 10, 1896 (29 Stats., 321), and it was ascertained that on September 7, 1896, a petition was filed by Minervi Swadley, praying for the admission to citizenship in the Choctaw Nation of herself and J. W. Swadley as citizens by blood of said Nation. This case was docketed as "Minerv Swadley et al. vs. Choctaw Nation, 1896 Choctaw Citizenship Case No. 1080."

On December 5, 1896, a decision was rendered by the Commission to the Five Civilized Tribes admitting Minervi Swadley as a

(3)

citizen by intermarriage and J. W. Swadley as a citizen by blood of the Choctaw Nation.

A further examination of the petitions filed under the act of Congress of June 10, 1896 revealed that on September 7, 1896, a petition was filed with the Commission to the Five Civilized Tribes by W. T. Swadley praying for his admission to citizenship in the Choctaw Nation. This petition was docketed as "1896 Choctaw Citizenship Case No. 819" and on December 4, 1896, a decision was rendered by the Commission to the Five Civilized Tribes admitting W. T. Swadley as an intermarried citizen of the Choctaw Nation.

From these decisions appeals were perfected to the United States Court for the Central District of the Indian Territory, where the cases were consolidated under the title of Minerva Swadley, et al. vs. the Choctaw Nation.

January 31, 1898, the United States Court for the Central District of the Indian Territory rendered a judgment reversing the decisions of the Commission to the Five Civilized Tribes and declaring Minerva Swadley, Wm. T. Swadley and Wm. Swadley not entitled to citizenship in the Choctaw Nation.

Before a report was submitted to the Department Minerva P. Swadley and W. T. Swadley, in company with their attorney, Charles von Weise, of Ardmore, Indian Territory, appeared before this office on August 16, 1906, on which date the testimony of the applicants was taken.

(4)

I now have the honor to return herewith the "special motion" filed with the Department by Mr. von Weise on June 6, 1906, with a copy of the proceedings had before this office August 16, 1906, and Mr. von Weise's brief and argument filed August 29, 1906, together with my Decision of December 13, 1906, granting the application for the enrollment of Minerva F. Swadley as a citizen by blood and William T. Swadley as a citizen by intermarriage of the Choctaw Nation and refusing the application for the enrollment of John W. W. Swadley as a citizen by blood of the Choctaw Nation.

I have the honor to further report that the applicants, their attorney of record and the attorneys for the Choctaw and Chickasaw Nations have been furnished with copies of my decision of December 13, 1906, and advised of the forwarding of the record in the matter to the Secretary of the Interior.

Respectfully,

SIGNED *Tamie Bixby.*

Commissioner.

Through the Commissioner
of Indian Affairs.

Enc.

Land
111707-1906
111107- "

DEPARTMENT OF THE INTERIOR
OFFICE OF INDIAN AFFAIRS
WASHINGTON.

(COPY)

January 7, 1907.

The Honorable,

The Secretary of the Interior,

Sir:

Referring to Departmental letter of December 27, 1906, (I.T.D. 15395-1906) requesting early action in the matter of the application of Manervia F. Swadley, et al., for enrollment as citizens of the Choctaw Nation, there is inclosed herewith a report of Commissioner Bixby, dated December 18, 1906, relative to the above case.

The Department, by letter of June 9, 1906 (I.T.D. 6395-1906), transmitted to the Commissioner to the Five Civilized Tribes for report and recommendation a so called "special motion" filed with the Department by Charles von Weise, attorney at law, of Ardmore, I. T., for permission to file an application for the enrollment of Manervia F. Swadley, W. T. Swadley and John W. V. Swadley as citizens by blood of the Choctaw Nation, and requested to be advised whether, in view of the records in the office of the Commissioner, any application has been made for the enrollment of the applicants, as above.

The Commissioner reports that it does not appear from the records in his possession that any formal application has ever been made for the enrollment of the applicants as citizens

of the Choctaw Nation; that it does appear, however, from the records in his office that on September 7, 1896, in the case entitled "Minerv Swadley, et al., vs Choctaw Nation" (1896 Choctaw Citizenship Docket, Case No. 1080) original application was made to the Commission, under the provisions of the Act of June 10, 1896 (29 Stat. L. 321), for admission to citizenship in the Choctaw Nation of Manervia F. Swadley and J. V. Swadley as citizens by blood of the Choctaw Nation; that on December 5, 1896, the Commission rendered its decision therein admitting Manervia Swadley as a citizen by intermarriage, and J. V. Swadley as a citizen by blood; that on September 7, 1896, in the case entitled "W.T. Swadley vs Choctaw Nation," 1896 Choctaw Citizenship Docket, Case No. 819) original application was made to the Commission, under the provisions of the Act of June 10, 1896 (29 Stat. L., 321), for admission to citizenship in the Choctaw Nation of W. T. Swadley as a citizen by intermarriage, and that on December 4, 1896, the Commission admitted the applicant as a citizen by intermarriage of the Choctaw Nation.

From the decisions of the Commission of December 4, 1896, and December 5, 1896, admitting the applicants to citizenship in the Choctaw Nation, appeals were taken to the United States Court for the Central District of Indian Territory, where the cases were consolidated under the title of Minerva Swadley, et al., vs Choctaw Nation" (Citizenship Court Case No. 228). On January 31, 1898, the Court rendered judgement excluding from the roll of the Choctaw Nation the names of the applicants herein. This cause was not certified to the Choctaw and Chickasaw Citizenship Court

created under the Act of July 1, 1902 (32 Stat. L. 641), for trial de novo.

The evidence in this case shows that Manervia F. Swadley was born in the Choctaw Nation in 1853; that she is the daughter of William Hunter (now deceased) and Margaret Ann Hunter (now deceased), both of whom were Choctaw Indians by blood, and that the applicant was a resident in good faith of the Indian Territory on June 25, 1893; that it further appears that William T. Swadley was, on September 7, 1896, married to Manervia F. Swadley, in accordance with the laws, customs and usages of the Choctaw Nation; that at the time of the marriage, both of the applicants were residents in good faith of the Nation and that they lived together continuously as husband and wife in the Nation from the date of the marriage up to and including September 25, 1902. The applicant, John F. W. Swadley, was born in the year 1872, and is the son of the applicants, Manervia F. and William T. Swadley;

The Commission says that an examination of the tribal rolls of the Choctaw Nation in his possession shows that Manervia F. Swadley is identified on the 1893 Choctaw Leased District Payment roll, Apoka County, No 947, as Manerva Swadley; that opposite her name appears the notation, "No citizen" in lead pencil, and "Not entitled to draw", the latter written in ink, and that the applicant did not draw in the 1893 Leased District money. He also says that John F. W. Swadley is not identified on any of the tribal rolls of the Choctaw Nation in the possession of his office.

On this state of facts, the Commissioner expresses the opinion that inasmuch as the Commission to the Five Civilized Tribes in 1896 was without jurisdiction in so far as they attempted to pass on the right to admission of the applicants, the action of the United States Court for the Central District of the Indian Territory of January 31, 1898, was also without authority of law and of no force or effect on the status of the applicants as citizens of the Choctaw Nation; that the applications made to the Commission in 1896 should be considered as continuing applications for their enrollment, and that Manervia F. Swadley should be enrolled as a citizen by blood of the Choctaw Nation, and William T. Swadley as a citizen thereof by intermarriage.

The Commissioner in thus deciding was apparently influenced by the argument of the counsel for the applicant, to the effect that, under the terms of the Act of June 10, 1896 (29 Stat. L., 321) the Commission was without any authority in law to purge the tribal rolls, but that a mandatory duty was imposed to enroll any person whose name appeared thereon, and having no option but to thus enroll, the consideration of the right of the applicant to enrollment was ultra vires and beyond the jurisdiction of the Commission. The Commission having no jurisdiction, counsel argues the court to which appeal was taken, could have none, and their judgment denying applicants right to enrollment was therefore void.

It appears that in this case the name of Yawervia F. Swadley appeared on the 1893 Choctaw Landed District Payment Roll with the notations thereafter as above. The roll was in this condition when the Commission obtained possession thereof. Counsel argues that regardless of the this notation, the Commission was endowed with only the ministerial duty of enrolling the name of the applicant.

Under the terms of the Act of June 10, 1896, the rolls of the several tribes "as now existing" are confirmed.

While it is true that no authority was given the Commission to purge the rolls until the passage of the Act of June 23, 1898, (30 Stat. L. 493), yet the Commission under the Act of June 10, 1896, confirming the rolls as they then existed, certainly had power and were in duty bound to take notice of the condition of the rolls. A notation such as appeared after the name of the applicants was equivalent to elimination, just as a line drawn through the name would be, and it does not seem reasonable to assume that the law of 1896 intended the Commission to ignore alterations, erasures, or notations appearing on the roll, which clearly indicate an intention to eliminate a name therefrom.

The notation referred to in this case amounts to a virtual elimination of the applicant's name, and the roll was in this condition and had been made so by the tribal authorities at and prior to the time the Commission obtained possession thereof. That the applicant was considered by the latter as not being on the roll is shown by the fact that she did not draw any of

the leased district money.

The duty is imposed on the Commission by the Act of June 10, 1896, to give due force and effect to the rolls, usages and customs of each of the Nations. The authorities of the Nation having seen fit to eliminate from the roll the name of the applicant as they clearly had the right to do, the Commission had no power to inquire into that act nor to reinstate her on the roll, and in particular manner of elimination, so long as the intention clearly exists to so eliminate, should make no difference. The most convenient method of indicating such an intention is by erasure, notation, or cancellation.

It would obviously be impracticable, in preparing the rolls, to destroy a whole sheet for the purpose of eliminating a name appearing thereon and prepare a new one omitting the objectionable name. The common and most natural practice should be recognized in the consideration of such a question.

In view of the foregoing the Office is of the opinion that, owing to the clear intention of the tribal authorities to eliminate the name of Manervia F. Swadley from the roll in question, as indicated by the notations appearing after her name, and the fact that she was not allowed to draw leased district money as others were, who were on the rolls and against whose names no objectionable notations appeared, the Commission in 1896 not only had jurisdiction to consider her application to be added to the rolls, but were in duty bound to take notice of the notations referred to, and were without authority to reinstate her on the

-7-

roll before the consideration of her application as they would any other application by a person whose name was not on a tribal roll.

The commission having had authority in 1896, to consider the application, the District Court had jurisdiction of the case and its decision denying the application was final, and the case should therefore be dismissed.

It is recommended that Commissioner Dixby's decision granting the right to Mamervia F. Swadley to enrollment as a Choctaw citizen by blood be reversed, and her application denied.

William F. Swadley, having no rights except such as accrue to him by reason of his marriage to Mamervia F. Swadley, is not entitled to enrollment.

John W W. Swadley was 22 years old in 1893 when the leased district roll was made up, and his name not appearing thereon, he did not in 1896, possess such tribal status as would entitle him to enrollment, and his application should be denied.

Very respectfully,

C. F. Larrabee,

Acting Commissioner.

A.J.W.-H.L.

7-6053

Muskagee, Indian Territory, January 18, 1907.

Chief Clerk,

Choctaw Land Office,

Atoka, Indian Territory.

Dear Sir:

For the information of your office there is inclosed herewith copy of Choctaw roll card No. 6053, William T. Swadley et al., and you are directed to make duplicate Choctaw roll card of the same number in your possession conform to the information thereon and add the names of these persons to your list of undetermined applicants for enrollment in the Choctaw Nation.

Respectfully,

MB 1-18.

Commissioner.

Mem 259

Muskogee, Indian Territory, August 31, 1906.

Charles von Weiss,

Ardmore, Indian Territory.

Dear Sir:

Receipt is hereby acknowledged of your letter of August 25, 1906, inclosing brief and written argument in the matter of the application for the enrollment of Manerva F. Swadley et al. as citizens by blood of the Choctaw Nation and the same have been filed with the record in this case.

Respectfully,

Acting Commissioner.

15 KS ZY D 911AM, 104 Collect GOV'T,

Washington, D. C. March 2----3 07

Bixby, Commissioner

Muskogee, I. T.

Referring to your telegram of the twenty first you are advised that the Decision of the Department of February eleventh relative to Manervia F. Stedley et al is rescinded as the United States Court Jan'y thirty one eighteen ninety-eight Rendered a decision adverse to the applicants and the case was not certified to the Choctaw and Chickasaw Citizenship Court for tribal De Neve applicants are Denied enrollment under the Decision of the Attorney General of Feb'y nineteenth you are directed to strike their names from the Partial roll if enrolled as of this date.

E. A. Hitchcock, Sec'y.

COPY.

Land
#4139-1909
J E D

Enrollment case of
Wm. T. Swadley, et al.

Washington, August 18, 1909.

The Commissioner
to the Five Civilized Tribes,
Muskogee, Oklahoma.

Sir:-

Referring to the reports of March 12 and April 19,
1909, from your office relative to the Choctaw enrollment case
of Wm. T. Swadley, et al, there is transmitted herewith for
your information and guidance a copy of Department decision of
August 9, 1909.

You are requested to notify the parties in interest.

Very respectfully,

John Francis, Jr.,

Acting Chief Clerk.

AG-14
1974

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

G. V.

LLB

D.C. 23902-1906.
I.T.D. 6395-1906.

June 9, 1906.

L.R.S.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

There is forwarded to you for report and recommendation special motion for permission to file an application for the enrollment of Van Cwie T. Swadley, William T. Swadley, and John W. T. Swadley as citizens by blood of the Choctaw Nation.

In view of the statement of the Acting Commissioner in letter of March 28, 1906, to Charles von Weise, attorney for applicants, that "it does not appear from the records of this office that application has been made by or on behalf of the persons herein named for enrollment as citizens of the Choctaw Nation," you are requested to report specially whether any application for enrollment on behalf of any of the applicants above named was filed with the Commission to the Five Civilized Tribes under the act of June 10, 1906, as alleged, and as appears from copies filed with said petition.

In view of the approved opinion of the Assistant Attorney-General of November 11, 1905, in the case of Joe and Dillard Perry (I.T.D. 16132-1905), and the provisions of section 1 of the act of April 26,

-2-

1906 (Public No. 129), you are requested to state whether, in your opinion, in view of your records, any application has been made for the enrollment of applicants as citizens of the Choctaw Nation.

Respectfully,

James H. Wilson

Assistant Secretary.

1 inclosure.

Through the Commissioner
of Indian Affairs.

Memo.-259

Muskogee, Indian Territory, December 15, 1906.

John W. W. Swadley,

Coalgate, Indian Territory.

Dear Sir:

Inclosed herewith you will find a copy of the decision of the Commissioner to the Five Civilized Tribes, dated December 15, 1906, declining to receive the application for your enrollment as a citizen by blood of the Choctaw Nation.

The decision, with the record of proceedings in the case, is this day transmitted to the Secretary of the Interior for review. The final decision of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

Wm. L. Sims
Commissioner.

Registered.

Incl. Memo.-259.

COPY.

Muskogee, Indian Territory, December 15, 1906.

The Honorable,

The Secretary of the Interior.

Sir:

The Department under date of June 9, 1906 (I.T.D. 6395-1906), transmitted to this office for report and recommendation, a so-called "special motion" filed with the Department by Charles von Weise, attorney at law, of Ardmore, Indian Territory, for permission to file an application for the enrollment of Manervia F. Swadley, W. T. Swadley and John W. W. Swadley as citizens by blood of the Choctaw Nation.

The Department calls attention to this office letter of March 26, 1906, addressed to Charles von Weise, Ardmore, Indian Territory, in which he was advised that

" . . . it does not appear from the records of this office that application has been made by or on behalf of the persons herein named for enrollment as citizens of the Choctaw Nation"

and requests special report as to whether any application for enrollment on behalf of the applicants was ever filed with the Commission to the Five Civilized Tribes under the Act of Congress approved

(2)

June 10, 1896 (29 Stats., 321), as alleged and as appears from exhibits attached to Mr. von Weise's petition.

The Department further states, in view of the approved opinion of the Assistant Attorney General of November 11, 1905, in the case of Joe and Dillard Perry (I.T.D. 15132-1905), and the provisions of Section 1 of the Act of Congress approved April 26, 1906 (34 Stats., 137), that it desires my opinion, in view of the records of this office, whether any application has been made for the enrollment of the applicants as citizens of the Choctaw Nation.

Upon the receipt of Departmental letter of June 9, 1906, and a thorough consideration of Mr. von Weise's petition and the exhibits attached thereto, an examination was made of the petitions for citizenship in the Choctaw Nation filed with the Commission to the Five Civilized Tribes under the Act of Congress approved June 10, 1896 (29 Stats., 321), and it was ascertained that on September 7, 1896, a petition was filed by Minervi Swadley, praying for the admission to citizenship in the Choctaw Nation of herself and J. W. Swadley as citizens by blood of said Nation. This case was docketed as "Minerv Swadley et al. vs. Choctaw Nation, 1896 Choctaw Citizenship Case No. 1080."

On December 5, 1896, a decision was rendered by the Commission to the Five Civilized Tribes admitting Minervi Swadley as a

(3)

citizen by intermarriage and J. W. Swadley as a citizen by blood of the Choctaw Nation.

A further examination of the petitions filed under the act of Congress of June 10, 1896 revealed that on September 7, 1896, a petition was filed with the Commission to the Five Civilized Tribes by W. T. Swadley praying for his admission to citizenship in the Choctaw Nation. This petition was docketed as "1896 Choctaw Citizenship Case No. 819" and on December 4, 1896, a decision was rendered by the Commission to the Five Civilized Tribes admitting W. T. Swadley as an intermarried citizen of the Choctaw Nation.

From these decisions appeals were perfected to the United States Court for the Central District of the Indian Territory, where the cases were consolidated under the title of Minerva Swadley, et al. vs. the Choctaw Nation.

January 31, 1898, the United States Court for the Central District of the Indian Territory rendered a judgment reversing the decisions of the Commission to the Five Civilized Tribes and declaring Minerva Swadley, Wm. T. Swadley and Wm. Swadley not entitled to citizenship in the Choctaw Nation.

Before a report was submitted to the Department Minerva F. Swadley and W. T. Swadley, in company with their attorney, Charles von Weise, of Ardmore, Indian Territory, appeared before this office on August 16, 1906, on which date the testimony of the applicants was taken.

(4)

I now have the honor to return herewith the "special motion" filed with the Department by Mr. von Weise on June 6, 1906, with a copy of the proceedings had before this office August 16, 1906, and Mr. von Weise's brief and argument filed August 29, 1906, together with my Decision of December 15, 1906, granting the application for the enrollment of Minerva F. Swadley as a citizen by blood and William T. Swadley as a citizen by intermarriage of the Choctaw Nation and refusing the application for the enrollment of John W. W. Swadley as a citizen by blood of the Choctaw Nation.

I have the honor to further report that the applicants, their attorney of record and the attorneys for the Choctaw and Chickasaw Nations have been furnished with copies of my decision of December 15, 1906, and advised of the forwarding of the record in the matter to the Secretary of the Interior.

Respectfully,

SIGNED *Tams Bixby.*

Commissioner.

Through the Commissioner
of Indian Affairs.

Enc.

7-6053

Muskogee, Indian Territory, January 18, 1907.

Chief Clerk,
Chickasaw Land Office,
Ardmore, Indian Territory.

Dear Sir:

For the information of your office there is inclosed herewith copy of Choctaw roll card No. 6053, William T. Swadley et al. and you are directed to make duplicate Choctaw roll card of the same number in your possession conform to the information thereon and add the names of these persons to your list of undetermined applicants for enrollment in the Choctaw Nation.

Respectfully,

Commissioner.

KB 2-18

DEPARTMENT OF THE INTERIOR
WASHINGTON,

J.F.Jr.

L.L.B.

I.T.D. 374-1907.
3136- "
D.C. 10004

February 14, 1907.

LRS

Direct.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

On January 7, 1907 (Land 113107-1906), the Indian Office transmitted your report dated December 18, 1906, in the matter of the application of Manervia F. Swadley et al. for enrollment as citizen of the Choctaw nation, together with your decision dated December 18, 1906, granting the application for the enrollment of Manervia F. Swadley as a citizen by blood and William T. Swadley as a citizen by intermarriage of the Choctaw Nation, and refusing the application for the enrollment of John W. W. Swadley as a citizen by blood.

The Indian Office recommends that all of the applicants be denied. A copy of its letter is inclosed.

There is transmitted for your information a copy of an opinion of the Assistant Attorney-General dated and approved February 11, 1907.

In accordance with said opinion you are directed to enroll the applicants in the case.

The papers in the case and a carbon copy of said opinion,
also heretofore, have been sent to the Indian Office.

Respectfully,

Thos. Ryan

First Assistant Secretary

3 inc. and 4 to Ind. Of.

A. F. Mc.

2-18-07.

J.F.Jr.

DEPARTMENT OF THE INTERIOR,

D. C. 10694-1907.
I.T.D. 3980-1907.

WASHINGTON,

S.P.

February 20, 1907

L RS.

Direct.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

On February 16, 1907 (Land 13723-07), the Indian Office transmitted your report dated February 6, 1907, forwarding for departmental consideration a brief in the matter of the application for the enrolment of William T. Swadley, et al., as a citizen of the Choctaw Nation.

The records of the Department show that a decision was rendered in this case February 16, 1907.

Said brief and accompanying papers are accordingly returned to the Indian Office, together with a carbon copy hereof, to be filed with the papers.

Respectfully,

Thos Ryan.
First Assistant Secretary.

3 inc. to I. d. Of.

A. F. Mc
2-21-07.

7-2053

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54 KS RD E 22 collect, 211 pm, Govt.

DW Washington, D. C. Feb. 18

Commer. Five Tribes,

Muskogee, I. T.

Ordered that John W. W. Swadley be enrolled as a Choctaw by blood.

A. F. McGarr.

Muskogee, Indian Territory, March 5, 1907.

The Honorable,

The Secretary of the Interior.

Sir:-

On this date I telegraphed the Department as follows:

"Referring to your telegram of March second, name of William T. Swadley has been stricken from final roll of citizens by intermarriage of Choctaw Nation opposite number sixteen hundred thirty-four. The names of Minerva E. Swadley and John W. W. Swadley, so far as this office is advised, do not appear upon the final roll of citizens by blood of Choctaw Nation. See my report of February twenty-eighth."

and this will confirm same.

Respectfully,

Commissioner.

DEPARTMENT OF THE INTERIOR,

WASHINGTON.

I.T.D. 7794-1907/
L.R.S.
P.L.C.

J.P.
KLB.

March 4, 1907.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

In answer to Departmental telegram of February 23, 1907, and letter of the same date, you reported in letter of February 27, 1907, after inspection of the partial rolls of the Choctaw and Chickasaw Nation, prepared under the act of June 28, 1898 (30 Stat., 495), and subsequent legislation, the persons whose names have been placed on such partial rolls, in your opinion, contrary to the views expressed in the Attorney-General's opinion of February 19, 1907, in the case of Myrtle Randolph and others, copy of which was transmitted to you with letter of February 23, 1907, and which names you recommend be stricken from the partial rolls, opposite the numbers mentioned by you.

Your list is as follows:

CHOCTAWS BY BLOOD AND INTERMARRIAGE.

Charley S. Vincent, opposite No. 1498, upon the final roll of citizens by intermarriage of the Choctaw Nation. Denied by Commission in 1898 in case No. 251; no appeal. Patents recorded.

John Calvin Gray, opposite No. 1513, upon the final roll of citizens by intermarriage of the Choctaw Nation. Admitted by Commission in 1896 in case No. 99, and denied by the United States court for the central district of Indian Territory on appeal; no appeal to the Choctaw and Chickasaw Citizenship Court.

Daisy Shelton, Frank Shelton, Emma Shelton, opposite Nos. 15951, 15952, 15953, respectively, upon the final roll of citizens by blood of the Choctaw Nation. All denied by Commission in 1896 in case No. 1407; admitted by United States court for southern district of Indian Territory; no appeal to Choctaw and Chickasaw Citizenship Court. Patents for No. 15951 recorded.

John Shelton, opposite No. 1495, upon the final roll of citizens by intermarriage of the Choctaw Nation. Denied by Commission in 1896 in case No. 1407; admitted by United States court for southern district of Indian Territory; no appeal to Choctaw and Chickasaw Citizenship Court.

Jacob D. Sumpter, opposite No. 1499, upon the final roll of citizens by intermarriage of the Choctaw Nation. Denied by Commission in 1896 in case No. 1073; no appeal. Patents recorded.

John Sumpter, Ananda Isabella Sumpter, Jim Andy Sumpter, and Scott Taylor Sumpter, opposite Nos. 15645, 15646, 15647, and

15643, respectively, upon the final roll of citizens by blood of the Choctaw Nation. Denied by Commission in 1896 in case No. 1073; no appeal. Patents for No. 15643 recorded; homestead patent for No. 15647 recorded.

Dixon B. Sumpter, opposite No. 15649, upon the final roll of citizens by blood of the Choctaw Nation. Son of Henry Sumpter, deceased, who was denied by Commission in 1896 in case No. 1073, and no appeal. Born in 1897.

Mattie S. Mitchell, opposite No. 1519, upon the final roll of citizens by intermarriage of the Choctaw Nation. Denied by Commission in 1896 in case No. 1299; no appeal.

Georgia Hyden, opposite No. 1602, upon the final roll of citizens by intermarriage of the Choctaw Nation. Denied by Commission in 1896 in case No. 1244; admitted by United States court for the central district of Indian territory; denied by the Choctaw and Chickasaw Citizenship Court: decision of Commissioner of October 1, 1906, granting enrollment affirmed by department November 17, 1906 (I.T.D.22524-1906).

Eva Marguerite Hyden, opposite No. 16102, upon the final roll of citizens by blood of the Choctaw Nation. Denied by Commission in 1896 in case No. 1244; admitted by United States court for central district of Indian Territory; denied by Choctaw and Chickasaw Citizenship Court. Application for enrollment granted by

Commissioner October 1, 1906; affirmed by Department November 17, 1906 (I.T.D.22524-1906).

J. W. Kirk, opposite No. 1399, upon the final roll of citizens by intermarriage of the Cheetaw Nation. Denied by Commission in 1896 in case No. 948; appeal to United States district court dismissed.

Sarah Kirk and Gabriella Kirk, opposite Nos. 15393 and 15394, respectively, upon the final roll of citizens by blood of the Cheetaw Nation. Denied by Commission in 1896 in case No. 948; appeal to United States district court dismissed. Patents recorded.

William J. Crowder, Abigail Crowder, Maggie Crowder, Rosa Crowder, William N. Crowder, and John F. Crowder, opposite Nos. 15999, 15900, 15901, 15902, 15903, and 15904, respectively, upon the final roll of citizens by blood of the Cheetaw Nation. Denied by the Commission in 1896 in case No. 780; no appeal. Patents for No. 15999 recorded.

Winnie Gertrude Crowder, born June 6, 1901, opposite No. 15905, upon the final roll of citizens by blood of the Cheetaw Nation. Daughter of William J. Crowder, who was denied by Commission in 1896 in case No. 780; no appeal.

Josephine Crowder, opposite No. 1523, upon the final roll of citizens by intermarriage of the Cheetaw Nation. Denied by Commission in 1896 in case No. 763; no appeal. Wife of William J. Crowder opposite No. 15999.

George W. Crowder, Louisa Crowder, Joe Crowder and Belmeri Crowder, opposite Nos. 15996, 15997, 15998 and 15999, respectively, upon the final roll of citizens by blood of the Cheetaw Nation. Denied by Commission in 1896 in case No. 713; no appeal. Patents for Nos. 15996, 15997 and 15998 recorded.

Willie Crowder, born October 15, 1893, opposite No. 15910, upon the final roll of citizens by blood of the Cheetaw Nation. Son of George W. Crowder, who was denied by Commission in 1896 in case No. 712; no appeal. Patents recorded.

Parlee C. Crowder, opposite No. 1524; upon the final roll of citizens by intermarriage of the Cheetaw Nation. Denied by Commission in 1896 in case No. 699; no appeal.

Van Crowder, opposite No. 15911, upon the final roll of citizens by blood of the Cheetaw Nation. Denied by Commission in 1896 in case No. 749; no appeal. Patents recorded.

Andrew L. Rice, opposite No. 1400, upon the final roll of citizens by intermarriage of the Cheetaw Nation. Denied by Commission in 1896 in case No. 642; no appeal. Patents recorded.

Betsy Wright, Thomas H. Wright, opposite Nos. 15912 and 15913, respectively, upon the final roll of citizens by blood of the Choctaw Nation. Denied by Commission in 1896 in case No. 507; no appeal. Patents recorded.

Mary M. Wright and Leonard Daise Wright (both born since 1896), opposite Nos. 15914 and 15915, respectively, upon the final roll of citizens by blood of the Choctaw Nation. Children of Betsy Wright, who was denied by Commission in 1896 in case No. 507; no appeal. Patents recorded.

Andrew J. Allen, opposite No. 16128, upon the final roll of citizens by intermarriage of the Choctaw Nation. Admitted by Commission in 1896 in case No. 498; admitted by United States court for central district of Indian Territory; no appeal to the Choctaw and Chickasaw Citizenship Court.

Elizabeth Allen, opposite No. 16103, upon the final roll of citizens by blood of the Choctaw Nation. Admitted by Commission in 1896 in case No. 498; admitted by United States court for central district of Indian Territory; no appeal to the Choctaw and Chickasaw Citizenship Court.

William H. Tucker, opposite No. 1470, upon the final roll of citizens by intermarriage of the Choctaw Nation. Admitted by Commission in 1896 in case No. 285; admitted by United States

court for central district of Indian Territory; no appeal to the
Cheetaw and Chickasaw Citizenship Court. Patents recorded.

Arthur Jennings and Clyde Jennings, opposite Nos. 18972
and 18973, respectively, upon the final roll of citizens by blood
of the Cheetaw Nation. Denied by Commission in 1896 in case No.
1048; admitted by United States court for Southern district of
Indian Territory; no appeal to Cheetaw and Chickasaw Citizenship
Court.

William Reichert, opposite No. 1492, upon the final roll
of citizens by intermarriage of the Cheetaw Nation. Denied by
Commission in 1896 in case No. 1117; no appeal. Patents recorded.

Ella Reding, opposite No. 1490, upon the final roll of
citizens by intermarriage of the Cheetaw Nation. Admitted by Com-
mission in 1896 in case No. 1243; admitted by United States court
for central district of Indian Territory; no appeal to Cheetaw and
Chickasaw Citizenship Court.

Ardella Kiefer, opposite No. 18916, upon the final roll
of citizens by blood of the Cheetaw Nation. Admitted by Commission
in 1896 in case No. 1243; admitted by United States Court for cen-
tral district of Indian Territory; no appeal to Cheetaw and Chick-
asaw Citizenship Court.

Angeline White, opposite No. 1493, upon the final roll
of citizens by intermarriage of the Cheetaw Nation. Denied by Com-

mission in 1896 in case No. 950; no appeal. Enrollment ordered by Department February 3, 1905 (I.T.D. 1130-1906).

David Ritter, opposite No. 16104, upon the final roll of citizens by blood of the Chectaw Nation. Admitted by Commission in 1896 in case No. 488; denied by Commission in 1896 in case No. 1107; admitted by United States Court for central district of Indian Territory; no appeal to Chectaw and Chickasaw Citizenship Court.

Ida Crutchfield, Ima Crutchfield, Louvinia Crutchfield, William Crutchfield and Leutitia Crutchfield, opposite Nos. 16105, 16107, 16108, 16109 and 16110, respectively, upon the final roll of citizens by blood of the Chectaw Nation. Admitted by Commission in 1896 in case No. 488; admitted by United States court for central district of Indian Territory; no appeal to Chectaw and Chickasaw Citizenship Court.

Evered Crutchfield, opposite No. 16106, upon the final roll of citizens by blood of the Chectaw Nation. Born in 1887, and son of Ida Crutchfield, above mentioned. Was not before the Commission in 1896, and possesses no tribal status.

George W. Crutchfield, opposite No. 16111, upon the final

roll of citizens by blood of the Choctaw Nation. Born since 1896, and child of Ida Crutchfield, opposite No. 16108.

James T. Leard, opposite No. 1626, upon the final roll of citizens by intermarriage of the Choctaw Nation. Denied by Commission in 1896 in case No. 1223; admitted by United States court for the central district of Indian Territory; denied by the Choctaw and Chickasaw Citizenship Court.

Robert L. Raben, opposite No. 1406, upon the final roll of citizens by intermarriage of the Choctaw Nation. Denied by Commission in 1896 in case No. 1017; no appeal. Patents recorded.

Sarah Merryman, opposite No. 1405, upon the final roll of citizens by intermarriage of the Choctaw Nation. Denied by Commission in 1896 in case No. 345; no appeal.

Mellie P. Beagles, opposite No. 15917, upon the final roll of citizens by blood of the Choctaw Nation. Denied by Commission in 1896 in case No. 11; no appeal. Patents recorded.

August Klugh, opposite No. 290, upon the final roll of citizens by intermarriage of the Choctaw Nation. Denied by Commission in 1896 in case No. 223; no appeal. Patents recorded.

Henry Peabworth, opposite No. 9258, upon the final roll

of citizens by blood of the Choctaw Nation. Denied by Commission in 1896 in case No. 1376; no appeal. Patents recorded.

Mary M. Bowling, opposite No. 1408, upon the final roll of citizens by intermarriage of the Choctaw Nation. Denied by Commission in 1896 in case No. 1031; no appeal. Patents recorded.

Alice E. James, Maggie M. James, Ellis E. James, Analaurie James and Evalena James, opposite Nos. 15450, 15451, 15452, 15453, and 15454, respectively, upon the final roll of citizens by blood of the Choctaw Nation. Denied by Commission in 1896 in case No. 1031; no appeal. Patents for Nos. 15450, 15451, 15453, and 15454 recorded.

Chester C. Atwood, opposite No. 1409, upon the final roll of citizens by intermarriage of the Choctaw Nation. Denied by Commission in 1896 in case No. 1127; no appeal. Patents recorded.

William D. Paxton, opposite No. 1410, upon the final roll of citizens by intermarriage of the Choctaw Nation. Denied by Commission in 1896 in case No. 582; no appeal. Patents recorded.

Charles A. Woodward, opposite No. 662, upon the final

roll of citizens by intermarriage of the Choctaw Nation. Admitted by Commission in 1896 in case No. 522; denied by United States court for central district of Indian Territory; no appeal to the Choctaw and Chickasaw Citizenship Court. Homestead patent recorded.

Frederick R. Robinsen, opposite No. 1331, upon the final roll of citizens by intermarriage of the Choctaw Nation. Admitted by Commission in 1896 in case No. 578; admitted by United States court for central district of Indian Territory; no appeal to Choctaw and Chickasaw Citizenship Court.

Virginia P. Mitchell, opposite No. 1215, upon the final roll of citizens by intermarriage of the Choctaw Nation. Denied by Commission in 1896 in case No. 389; no appeal. Patents recorded.

Andrew Deal, opposite No. 1473, upon the final roll of citizens by intermarriage of the Choctaw Nation. Denied by Commission in 1896 in case No. 77; no appeal.

Benjamin E. Senter, opposite No. 1216, upon the final roll of citizens by intermarriage of the Choctaw Nation. Admitted by Commission in 1896 in case No. 267; denied by United States court for central district of Indian Territory; no appeal to Choctaw and Chickasaw Citizenship Court. Patents recorded.

Calvin Q. Harris, opposite No. 1329, upon the final roll of citizens by intermarriage of the Choctaw Nation. Admitted by Commission in 1896 in case No. 423; denied by United States court for central district of Indian Territory; no appeal to Choctaw and Chickasaw Citizenship Court. Homestead patent recorded.

Lydia Ann Greider, opposite No. 1412, upon the final roll of citizens by intermarriage of the Choctaw Nation. Denied by Commission in 1896 in case No. 742; no appeal.

Madell McClure, opposite No. 1414, upon the final roll of citizens by intermarriage of the Choctaw Nation. Denied by Commission in 1896 in case No. 1326; no appeal.

Mary E. Robinson and Mary A. Trice, opposite Nos. 18856 and 18857, respectively, upon the final roll of citizens by blood of the Choctaw Nation. Denied by Commission in 1896 in case No. 661; no appeal. Patents for No. 18856 recorded.

Lucy McNurtry, opposite No. 1407, upon the final roll of citizens by intermarriage of the Choctaw Nation. Denied by Commission in 1896 in case No. 1384; no appeal.

Eli W. Crowder, James Crowder, Katie B. Crowder, and Pinkie B. Crowder, opposite Nos. 15921, 15922, 15923, and 15924, respectively, upon the final roll of citizens by blood of the Choctaw Nation. Denied by Commission in 1896 in case No. 762; no appeal.

John A. Crowder, opposite No. 15925, upon the final roll of citizens by blood of the Choctaw Nation. Born in 1897, and son of Eli W. Crowder, opposite No. 15921. Patents recorded.

Henry Gutherland, opposite No. 668, upon the final roll of citizens by intermarriage of the Choctaw Nation. Denied by Commission in 1896 in case No. 1381; no appeal. Patents recorded.

Robert A. Travis, opposite No. 340, upon the final roll of citizens by intermarriage of the Choctaw Nation. Denied by Commission in 1896 in case No. 438; no appeal.

Mary Moran, opposite No. 1416, upon the final roll of citizens by intermarriage of the Choctaw Nation. Denied by Commission in 1896 in case No. 350; no appeal. Patents recorded.

George W. Roberts, opposite No. 1019, upon the final roll of citizens by intermarriage of the Choctaw Nation. Admitted by Commission in 1896 in case No. 659; denied by United States court for central district of Indian Territory; no appeal to the Choctaw and Chickasaw Citizenship Court. Patents recorded.

Viccy Lewis, opposite No. 1476, upon the final roll of citizens by intermarriage of the Choctaw Nation. Admitted by Commission in 1896 in case No. 1239; admitted by United States court for central district of Indian Territory; no appeal to Choctaw and Chickasaw Citizenship Court. Patents recorded.

Ira L. Smith, opposite No. 1127, upon the final roll of citizens by intermarriage of the Choctaw Nation. Denied by Commission in 1894 in case No. 790; denied by United States court for central district of Indian Territory; no appeal to Choctaw and Chickasaw Citizenship Court. Patents recorded.

Mattie Broozy, opposite No. 1481, upon the final roll of citizens by intermarriage of the Choctaw Nation. Denied by Commission in 1896 in case No. 468; no appeal. Patents recorded.

Rosa E. Rigney, opposite No. 1478, upon the final roll of citizens by intermarriage of the Choctaw Nation. Admitted by Commission in 1896 in case No. 706; admitted by United States court for central district of Indian Territory; no appeal to Choctaw and Chickasaw Citizenship Court. Patents recorded.

Josiah T. Marshall, opposite No. 1341, upon the final roll of citizens by intermarriage of the Choctaw Nation. Admitted by Commission in 1896 in case No. 372; denied by United States court for the central district of Indian Territory; appeal to Choctaw and Chickasaw Citizenship Court dismissed on May 4, 1905, on general demurrer, in case No. 3 upon the McAlester docket.

Fannie Shults, opposite No. 1423, upon the final roll of citizens by intermarriage of the Choctaw Nation. Denied by Commission in 1896 in case No. 1067; no appeal. Patents recorded.

Hattie A. Perkins, opposite No. 1037, upon the final roll of citizens by intermarriage of the Choctaw Nation. Denied by Commission in 1896 in case No. 554; no appeal. Patents recorded.

John T. Staten, opposite No. 1426, upon the final roll of citizens by intermarriage of the Choctaw Nation. Denied by Commission in 1896 in case No. 1072; no appeal. Patents recorded.

Amanda Cheats, opposite No. 1509, upon the final roll of citizens by intermarriage of the Choctaw Nation. Denied by Commission in 1896 in case No. 787; no appeal.

Eva Coleman, opposite No. 1536, upon the final roll of citizens by intermarriage of the Choctaw Nation. Denied by Commission in 1896 in case No. 971; no appeal.

William F. Kelly, opposite No. 1409, upon the final roll of citizens by intermarriage of the Choctaw Nation. Admitted by Commission in 1896 in case No. 1198; admitted by United States court for central district of Indian Territory; no appeal to the Choctaw and Chickasaw Citizenship Court.

Mattie M. Russell, opposite No. 1363, upon the final roll of citizens by intermarriage of the Choctaw Nation. Denied by Commission in 1896 in case No. 1114; no appeal.

Grever Randall, opposite No. 15028, upon the final roll of citizens by blood of the Choctaw Nation. Admitted by Commission in 1896 in case No. 657; admitted by United States court for central district of Indian Territory; no appeal to Choctaw and Chickasaw Citizenship Court.

Agnes James, opposite No. 13061, upon the final roll of citizens by blood of the Cheetaw Nation. Denied by Commission in 1896 in case No. 1019; no appeal.

Martha Hylen, opposite No. 1400, upon the final roll of citizens by intermarriage of the Cheetaw Nation. Denied by Commission in 1896 in case No. 1344; admitted by United States court for Southern district of Indian Territory; denied by Cheetaw and Chickasaw Citizenship Court.

Wiley Adams, opposite No. 13037, upon the final roll of citizens by blood of the Cheetaw Nation. Denied by Commission in 1896 in case No. 1128; no appeal.

Mary A. Foster, opposite No. 988, upon the final roll of citizens by intermarriage of the Cheetaw Nation. Denied by Commission in 1896 in case No. 437; no appeal.

Jeannette E. Baskhalts, opposite No. 1537, upon the final roll of citizens by intermarriage of the Cheetaw nation. Denied by Commission in 1896 in case No. 943; no appeal.

Golden T. Lindsey, opposite No. 1150, upon the final roll of citizens by intermarriage of the Cheetaw nation. Admitted by Commission in 1896 in case No. 25; denied by United States court for central district of Indian Territory; no appeal to Chee-

taw and Chickasaw Citizenship Court. Patents recorded.

Henry A. Cummings, opposite No. 1464, upon the final roll of citizens by intermarriage of the Choctaw Nation. Admitted by Commission in 1896 in case No. 963; admitted by United States court for central district of Indian Territory; no appeal to the Choctaw and Chickasaw Citizenship Court. Ordered enrolled by Department April 1, 1906 (I. T. D. 3131-1906). Patents recorded.

Allen Beagles, opposite No. 1466, upon the final roll of citizens by intermarriage of the Choctaw Nation. Denied by Commission in 1896 in case No. 11; no appeal. Patents recorded.

William Newton Sam, opposite No. 1499, upon the final roll of citizens by intermarriage of the Choctaw Nation. Admitted by Commission in 1896 in case No. 1010; admitted by United States court for central district of Indian Territory; no appeal to the Choctaw and Chickasaw Citizenship Court.

John W. Carter, opposite No. 1543, upon the final roll of citizens by intermarriage of the Choctaw Nation. Denied by Commission in 1896 in case No. 982; no appeal.

Julia Gue, opposite No. 1580, upon the final roll of citizens by intermarriage of the Choctaw Nation. Denied by Commission in 1896 in case No. 1407; admitted by United States court for southern district of Indian Territory; no appeal to Choctaw and Chickasaw Citizenship Court.

Robert C. Holenden, opposite No. 16032, upon the final roll of citizens by blood of the Choctaw Nation. Denied by Commission in 1896 in case No. 1329; no appeal. Directed to be enrolled by Department April 3, 1906 (I. T. D. 5932-1904).

Martha J. McGahay, opposite No. 1614, upon the final roll of citizens by intermarriage of the Choctaw Nation. Denied by Commission in 1896 in case No. 1286; no appeal. Decision of Commissioner of June 5, 1906, granting application affirmed by Department October 30, 1906 (I. T. D. 21232-1906).

Mattie L. Armstrong, Leyton B. Armstrong and Bessie D. Armstrong, opposite Nos. 16054, 16055 and 16056, respectively, upon the final roll of citizens by blood of the Choctaw Nation. Denied by Commission in 1896 in cases No. 477 and 478; admitted by United States Court for Southern district of Indian Territory; denied by Choctaw and Chickasaw Citizenship Court. Decision of Commissioner of July 9, 1906, granting application affirmed by Department August 11, 1896 (I. T. D. 13700-1906).

Rebecca K. Armstrong, opposite No. 16057, upon the final roll of citizens by blood of the Choctaw Nation. Born in 1896 and child of Mattie L. Armstrong, opposite No. 16054.

Thomas J. Howard, Horace Howard, Lemmie Howard, Emory Howard and Elmer Howard, opposite Nos. 16033, 16034, 16035, 16036

and 19037, respectively, upon the final roll of citizens by blood of the Choctaw Nation. Denied by Commission in 1896 in case No. 1354; no appeal. Directed to be enrolled by Department April 6, 1906 (I. T. D. 5364-1904).

Bettie Fernsey Howard and Dora Lee Howard, opposite Nos. 16038 and 16039, respectively, upon the final roll of citizens by blood of the Choctaw Nation. Born in 1897 and 1899, respectively, children of Thomas J. Howard, opposite No. 16033.

Carrie Howard, opposite No. 1578, upon the final roll of citizens by intermarriage of the Choctaw Nation. Denied by Commission in 1896 in case No. 1354; no appeal. Wife of Thomas J. Howard, opposite No. 16033.

Gertrude Beaver, Clarence Beaver, Nellie Beaver and Myrtle Beaver, opposite Nos. 16040, 16041, 16042 and 16043, respectively, upon the final roll of citizens by blood of the Choctaw Nation. Nos. 16040 and 16041 denied by Commission in 1896 in case No. 1354; no appeal. Nos. 16042 and 16043 born in 1896 and 1900, respectively, and children of Gertrude Beaver, opposite No. 16040. Ordered enrolled by Department April 6, 1906 (I. T. D. 5364-1904).

Burrell F. McLendon, John B. McLendon, Thomas McLendon, Ida M. McLendon, Ralph McLendon, Harry McLendon and Fannie McLendon,

opposite Nos. 16025, 16026, 16027, 16028, 16029, 16030 and 16031, respectively, upon the final roll of citizens by blood of the Choctaw nation. All but Nos. 16030 and 16031 denied by Commission in 1896 in case No. 1271; no appeal. Nos. 16030 and 16031 born in 1896 and 1898, respectively, and children of No. 16025. Directed to be enrolled by Department April 6, 1906 (I. T. D. 6372-1904).

Cornel McLendon, opposite No. 1577, upon the final roll of citizens by intermarriage of the Choctaw nation. Denied by Commission in 1896 in case No. 1271; no appeal. Wife of Rurrell F. McLendon, opposite No. 16023.

George A. Bumgarner, opposite No. 16112, upon the final roll of citizens by blood of the Choctaw nation. Denied by Commission in 1896 in case No. 620; no appeal.

James S. Long, Joseph Long, Forbis Long, opposite Nos. 16003, 16004 and 16005, respectively, upon the final roll of citizens by blood of the Choctaw nation. Placed on 1896 Choctaw Census Roll by Choctaw Revisory Board without authority of law, as in William C. Thompson case. Ordered enrolled by Department January 19, 1905 (I. T. D. 3192-1905).

Columbus B. Autry, Lenora Green and Teddy Green, opposite Nos. 16043, 16049 and 16050, respectively. Nos. 16043 and 16049 placed on 1896 Choctaw Census Roll by Choctaw Revisory Board without authority of law as in William C. Thompson case. No. 16050 born

February 14, 1901; son of 16049. Record transmitted to Department December 21, 1906, for consideration in case of Henshiah Noah Antry.

CHOCTAW MINORS, ACT OF CONGRESS APPROVED

APRIL 26, 1906 (34 Stats., 137).

Hettie Myrl Crowder, opposite No. 674, child of George W. Crowder, opposite No. 15906, upon the final roll of citizens by blood of the Choctaw Nation, and Parlee C. Crowder, opposite No. 1524 upon the final roll of citizens by intermarriage of the Choctaw nation.

Rufus Clay Crowder, opposite No. 4, child of William J. Crowder, opposite No. 15899, upon the final roll of citizens by blood of the Choctaw Nation, and Josephine Crowder, opposite No. 1523, upon the final roll of citizens by intermarriage of the Choctaw nation.

Fannie Jane Wright, opposite No. 253, child of J. W. Wright, non-citizen, and Betsey Wright, opposite No. 15912, upon the final roll of citizens by blood of the Choctaw Nation.

Lee Green, opposite No. 985, child of W. V. Green, non-citizen, and Lenora Green, opposite No. 16049, upon the final roll of citizens by blood of the Choctaw Nation.

Ruth McLendon, opposite No. 706, child of Robert C. McLendon, opposite No. 16032, upon the final roll of citizens by blood of the Cheetaw Nation, and Emma McLendon, a non-citizen.

Ray D. McLendon, opposite No. 288, child of Barrell F. McLendon, opposite No. 16028, upon the final roll of citizens by blood of the Cheetaw Nation, and Cornelia McLendon, opposite No. 1577, upon the final roll of citizens by intermarriage of the Cheetaw nation.

Jennie Louise Brandrick, opposite No. 734, child of Mary A. Trice, opposite No. 16037, upon the final roll of citizens by blood of the Cheetaw Nation, and William M. Brandrick, non-citizen.

Samuel Calvin Beaver, Claude Dawson Beaver, and Herbert Howard Beaver, opposite No. 457, 458 and 459, respectively, children of Gertrude Beaver, opposite No. 16040 upon the final roll of citizens by blood of the Cheetaw Nation, and Calvin Beaver, a non-citizen.

Effie Barnett, opposite No. 367, child of Amanda Isabella Supter, opposite No. 16045, upon the final roll of citizens by blood of the Cheetaw Nation, and A. F. Barnett, a non-citizen.

Odin A. Kiefer and Margaret Kiefer, opposite Nos. 790 and 791, respectively, children of Ardella Kiefer, opposite No. 18918, upon the final roll of citizens by blood of the Chectaw nation, and Charles Kiefer, a non-citizen.

Josephine Laflere Long, Francis Long and John Laflere Long, opposite Nos. 921, 499 and 922, respectively, children of Bertha Long, opposite No. 19005, upon the final roll of citizens by blood of the Chectaw nation, and Lennie Long, a non-citizen.

CHICKASAW BY BLOOD AND INTERMARRIAGE.

Gustavus A. Ramsey, opposite No. 814, upon the final roll of citizens by intermarriage of the Chickasaw nation. Admitted by Commission in 1894 in case No. 128; denied by United States court for Southern district of Indian Territory; no appeal to the Chectaw and Chickasaw Citizenship Court. Patents recorded.

Sallie J. Margie, opposite No. 424, upon the final roll of citizens by intermarriage of the Chickasaw nation; denied by Commission in 1894 in case No. 251; no appeal.

John E. Goldsby, Linniel E. Goldsby and Jennie Goldsby,

opposite Nos. 4984, 4988 and 4986, respectively, upon the final roll of citizens by blood of the Chickasaw nation. All admitted by Commission in 1896 in case No. 284; admitted by United States court for southern district of Indian Territory; no appeal to the Choctaw and Chickasaw Citizenship Court. Decision of Carroll on of May 23, 1905, granting application affirmed by Department October 6, 1905 (I. T. D. 8148-1905).

Murray Milton Goldsky, opposite No. 4987, upon the final roll of citizens by blood of the Chickasaw Nation. Born in 1896, and son of John E. Goldsky, opposite no. 4984.

Joe Perry and Dillard Perry, opposite Nos. 5013 and 5014, respectively, upon the final roll of citizens by blood of the Chickasaw nation. Denied by Commission in 1896 in case No. 114; no appeal. Ordered enrolled as citizens by blood of the Chickasaw Nation by Department on October 10, 1906 (I. T. D. 18963-1906). The names of these persons formerly appeared opposite Nos. 267 and 268 upon the roll of Chickasaw freedmen, approved by the Secretary of the Interior December 12, 1902; and in the event their names are stricken from the approved roll of citizens by blood of the Chickasaw nation, their names should be re-instated upon the Chickasaw freedmen roll.

Benjamin F. Vaughan, opposite No. 606, upon the final roll of citizens by intermarriage of the Chickasaw Nation. Admitted by Commission in 1896 in case No. 92; admitted by United States court for Southern District of Indian Territory; no appeal to the Choctaw and Chickasaw Citizenship Court. Patents recorded.

Edward A. Vaughan, Grever Cleveland Vaughan and Oscar S. Vaughan, opposite Nos. 4969, 4970 and 4971, respectively, upon the final roll of citizens by blood of the Chickasaw Nation. Admitted by Commission in 1896 in case No. 92; affirmed by United States court; no appeal to Choctaw and Chickasaw Citizenship Court. Patents recorded.

William T. Lamaster, opposite No. 612; upon the final roll of citizens by intermarriage of the Chickasaw Nation. Admitted by Commission in 1896 in case No. 203; appealed to United States Court and affirmed; no appeal to Choctaw and Chickasaw Citizenship Court; Patents recorded.

John V. Archard, opposite No. 612, upon the final roll of citizens by intermarriage of the Chickasaw Nation. Admitted by Commission in 1896 in case No. 178; appealed to United States court for Southern District of Indian Territory and affirmed; no appeal to Choctaw and Chickasaw Citizenship Court.

James W. Ragland, opposite No. 631, upon the final roll of citizens by intermarriage of the Chickasaw Nation. Denied by Commission in 1896 in case No. 55; appealed to United States court for Southern district of Indian Territory, and appeal dismissed. Action of the Commissioner of October 25, 1905, annulling applicant affirmed by the Department January 9, 1906 (I. T. S. 17400-1906).

Thomas St. John, opposite No. 586, upon the final roll of citizens by intermarriage of the Chickasaw Nation. Denied by Commission in 1896 in Choctaw Case No. 1059; no appeal. Patents recorded.

John Quincy Adams, opposite No. 621, upon the final roll of citizens by intermarriage of the Chickasaw Nation. Admitted by Commission in 1896 in case No. 2; denied by United States court for Southern district of Indian Territory; no appeal to Choctaw and Chickasaw Citizenship Court.

Mary A. Shanks, opposite No. 629, upon the final roll of citizens by intermarriage of the Chickasaw Nation. Denied by Commission in 1896 in case No. 219; admitted by United States court for Southern district of Indian Territory; no appeal to Choctaw and Chickasaw Citizenship Court.

Clay McCoy, opposite No. 606, upon the final roll of citizens by intermarriage of the Chickasaw Nation. Admitted by Commission in 1896 in case No. 141; admitted by United States court for Southern district of Indian Territory; no appeal to the Choctaw and Chickasaw Citizenship Court. Directed to be enrolled by Department April 1, 1906 (I. T. D. 3123-1906).

The Indian Office, to which was referred your letter of the 27th ultimo for report, concurs in letter of March 2, 1907, in your recommendation that such names be stricken from the rolls.

The Department is compelled to rely upon your investigation as the act of April 26, 1906 (34 Stat., 137), provides in section 2 that the rolls of the Choctaw and Chickasaw nations shall be completed on or before the 4th day of March, 1907, and that the Secretary of the Interior shall have no jurisdiction to approve the enrollment of any person after such date. Assuming, therefore, that your information is correct, the names of the persons mentioned, not heretofore stricken from the partial rolls, are stricken from such rolls this day; notwithstanding any decision that may have been made by the Department in favor of such persons.

As recommended by you, the names of Joe and Dillard Perry have been reinstated upon the Chickasaw freedmen roll, opposite Nos. 267 and 268.

The Department concurs in your views relative to the following persons:

Emma Mitchell and Allen Yates Mitchell, opposite Nos. 18655 and 18656, respectively, upon the final roll of citizens by blood of the Choctaw Nation. Denied by Commission in 1896 in case No. 1299; no appeal. Patents recorded.

David K. Strickland and Mertie P. Strickland, opposite Nos. 18919 and 18920, upon the final roll of citizens by blood of the Choctaw Nation. Denied by Commission in 1896 in case No. 941; no appeal.

Nettie P. McMurtry and Martha K. McMurtry, opposite Nos. 18448 and 18449, respectively, upon the final roll of citizens by blood of the Choctaw Nation. Denied by Commission in 1896 in case No. 1324; no appeal. Homestead patents recorded.

Rufus Satterfield, opposite No. 18930, upon the final roll of citizens by blood of the Choctaw Nation. Denied by Commission in 1896 in case No. 1082- no appeal.

Charles William Thompson, opposite No. 4868, on the final roll of citizens by blood of the Chickasaw Nation. Admitted by Commission in 1896 in case No. 188; admitted by United States court

for southern district of Indian Territory; no appeal to Choctaw and Chickasaw Citizenship Court.

You state that such persons are minor children of duly enrolled citizens by blood of the Choctaw and Chickasaw nation, and that the names of one parent of each of these children appears upon the final roll of citizens by blood of the Choctaw or Chickasaw nation approved by the Department prior to March 3, 1906, and that while under the opinion of the Attorney-General of February 19, 1907, it would appear that these children are not entitled to enrollment as citizens by blood of the Choctaw or Chickasaw Nation under the acts of June 28, 1898 (30 Stat., 498), and July 1, 1902 (32 Stat., 641), you believe that such children can be enrolled under a provision of the act of March 3, 1906 (33 Stat., 1060), which is as follows:

"That the Commission to the Five Civilized Tribes is hereby authorized for sixty days after the date of the approval of this Act to receive and act upon applications for enrollment of infant children born prior to September twenty-fifth, nineteen hundred and two, and who were living on said date, to citizens by blood of the Choctaw and Chickasaw tribes of Indians whose enrollment has been approved by the secretary of the Interior prior to the date of the approval of this Act, and to enroll and make allotments to such children."

In this ^{the} Department concurs, and as you suggest, the

-21-

names of these children will be permitted to stand as they are at present on the rolls of citizens by blood of these two nations.

If by inadvertence the name of anyone has been left on any partial roll after decision adverse to him was made by the Department prior to March 2, 1907, and since the opinion of the Attorney-General referred to, the name of such person will be stricken from the roll as of this date.

A copy of Indian Office letter of March 2, 1907, is inclosed.

Respectfully,

E. A. Hitchcock,

Secretary.

1 inclosure.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

March 2, 1907.

C O P Y

The Honorable,

The Secretary of the Interior.

Sir:

Acknowledgement is hereby made of the receipt of Departmental letter of this date, (I.T.D.6902-1907), enclosing for report copy of letter of February 27, 1907 from the Commissioner to the Five Civilized Tribes, relative to the names of persons who have heretofore been placed on the final rolls of citizens by blood of the Choctaw and Chickasaw Nations, who are affected by the opinion of the Attorney General of the United States of February 19, 1907.

Commissioner Bixby sets out in his letter the names of all the persons now appearing on the rolls who are deemed by him to be without right to enrollment under the opinion of the Attorney General mentioned. In some of these cases patents have been executed and recorded, and in others no patents have been issued.

The Office is of the opinion that the list prepared by the Commissioner contains the names of persons who in the light of the opinion of the Attorney General are not entitled to enrollment, and it is therefore recommended that the action

(2)

of the Commissioner in striking the names of these persons from the roll be approved, and that their names also be stricken from the copies of the rolls in the possession of the Department and of this Office.

Very respectfully,

C. F. Larrabee,

Acting Commissioner.

XDS-LG..

7-6053

Muskogee, Indian Territory, March 29, 1907.

William T. Swadley,

Coalgate, Indian Territory.

Dear Sir:

You are hereby advised that in accordance with an opinion of the Attorney General of the United States of February 19, 1907, the Secretary of the Interior on March 2, 1907, directed the cancellation of your enrollment upon the roll of citizens by blood of the Choctaw Nation, and of the enrollment of your wife, Minerva T. Swadley, upon the roll of citizens by blood of said nation.

Your names have accordingly been stricken from copies of said rolls in the possession of this office.

Respectfully,

Acting Commissioner.

Muskogee, Indian Territory, May 22, 1907.

Charles von Weise,
Attorney at Law,
Ardmore, Indian Territory.

Dear Sir:

Your letter of March 30, 1907, addressed to the Secretary of the Interior has been by him referred to this office for consideration and appropriate action. Therein you state that you have been unofficially advised that the enrollment of William T. Swadley, Minerva F. Swadley and John W. W. Swadley has been cancelled; you state that on March 4, 1907, you applied in person at the Secretary's office and were shown a letter press copy of the opinion of the Assistant Attorney General for the Department of February 28, 1907, approved the same date holding that these applicants were entitled to enrollment. You were subsequently informed by the Chief Clerk of the Chickasaw Land Office that these parties would not be permitted to take allotments of land for the reason that their names had been stricken from the roll by the order of the Secretary of the Interior of March 2, 1907; you state that as this alleged order of cancellation was made two days prior to the date in which you made a personal investigation of the status of

C. von W. #2.

these persons, you believe that there is an error some where and you ask to be furnished a copy of the opinion of the Assistant Attorney General holding that these persons were entitled to enrollment and also a copy of the alleged order of cancellation if such an order was issued.

In compliance with your request there is inclosed herewith copy of Departmental letter of February 16, 1907, in the matter of the application for the enrollment of Manervia F. Swadley et al.

There is also inclosed herewith copy of a telegram from the Department of March 2, 1907, rescinding Departmental action in the case of Manervia F. Swadley and directing the cancellation of their names if already enrolled.

Respectfully,

EB 1-22.

Commissioner.

7-61053

Muskogee, Indian Territory, June 7, 1907.

The Honorable,

The Secretary of the Interior.

Sir:

February 16, 1907, (I.T.D. 374, 3136-1907) the Department directed the enrollment of Manervia F. Swadley and William T. Swadley as citizens of the Choctaw Nation.

The letter transmitted for the information of this office a copy of the opinion of the Assistant Attorney General dated and approved February 11, 1907, and in accordance with said opinion the enrollment of the applicants in the case was directed.

It does not appear that a copy of the opinion of the Assistant Attorney General of February 11, 1907 above referred to is on file in this office and I have therefore to request a copy thereof in order that the record in the matter of the enrollment of Manervia F. Swadley et al. as citizens of the Choctaw Nation may be complete.

Respectfully,

Through the
Commissioner of Indian Affairs.

Commissioner.

GAW.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,

I. T. 53581-1907.

WASHINGTON.

June 21, 1907.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

In compliance with request contained in your letter of June 7, 1907, there is enclosed a copy of the opinion of the Assistant Attorney General of February 11, 1907.

Very respectfully,

F. M. Conser.

FWE-MH

Chief Clerk.

Copy.

J. R. W.

DEPARTMENT OF THE INTERIOR,
Office of the Assistant Attorney-General,
WASHINGTON.

I. T. D.
374-1907.

February 11, 1907.

The Secretary of the Interior.

Sir:

I received by reference of January 14, 1907, the record in case of Manervia F. Swadley and others for enrolment as citizens of the Choctaw Nation.

The principal applicant was born in the Choctaw Nation, child of William and Martha Hunter, his wife, both citizens by blood of that nation. She was married to W. T. Swadley, white, in Texas, while temporarily there, removed to the nation, and September 7, 1896, was remarried to him in the nation in conformity with Choctaw law. Her name appears on the 1893 leased district payment roll, against which are two notations both in different writing from the roll and from each other, (1) in pencil "no citizen," and (2) in ink "not entitled to draw." She did not draw the payment, \$108, apparently because she excited the animosity of one who offered her \$75 for it. She and her husband applied to the Commission in 1896 and were admitted. An appeal was taken to the United States court and her right was denied. December 16, 1906, the Commissioner held that she was not barred by the adverse action of the United States court, there being no jurisdiction of the Commission under the act of 1896 to purge the

roll, but that as her husband had not such tribal status as entitled him to enrolment, he was barred by the adverse action of the court, and recommended enrolment of her and her issue. The Indian Office, January 7, 1907, recommended reversal of the Commissioner's action as to Mrs. Swadley and affirmance of it as to her husband.

I am of opinion that the action of the Commissioner as to Mrs. Swadley and her issue should be affirmed. As to Mr. Swadley the case appears to be substantially like that of Benjamin J. Vaughn, subject of my opinion of March 24, 1905, and his right appears by brief of counsel for the Choctaw-Chickasaw Nations in that case to be conceded upon like facts by virtue of his marriage in accordance with Choctaw law and article 38 of the treaty of April 28, 1866 (14 Stat., 769, 779). I am therefore of opinion that he is also entitled to be enrolled.

Very respectfully,

Frank L. Campbell,

Assistant Attorney General.

Approved: February 11, 1907.

E. A. Hitchcock

Secretary.

7-6053

Muskegee, Indian Territory, July 19, 1907.

Charles von Weise,

Attorney at Law,

Ardmore, Indian Territory.

Dear Sir:

In compliance with your request for a copy of the opinion of the Attorney General of February 11, 1907, in the Choctaw enrollment case of Minerva W. Swadley et al. the same is herewith inclosed.

Respectfully,

EB 6-2.

Acting Commissioner.

END
OF
ROLL

